Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for	)	WC Docket No. 02-202
Emergency Declaratory and	)	
Other Relief	)	

REPLY COMMENTS OF VERIZON

Michael E. Glover
Edward Shakin
Ann H. Rakestraw
VERIZON
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3860

John H. Harwood II
Kathryn C. Brown
Daniel McCuaig
Jonathan H. Siegelbaum
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037
(202) 663-6000

Counsel for Verizon

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Introduction and Summary

Verizon's petition[2/] is designed to achieve one straightforward and objectively unobjectionable goal: to obtain the same types of commercially reasonable protections that companies in other industries have, and that other carriers in *this* industry have, to protect against nonpayment by customers who experience financial difficulties. These protections are necessary to ensure that Verizon and other regulated carriers are not relegated to the back of the line in terms of their ability to get paid compared to other vendors and other creditors, to stop failing carriers from shifting their losses onto Verizon and other regulated carriers, and to protect the telecommunications industry from absorbing a grossly disproportionate portion of the impact of failing carriers' financial difficulties. While the Commission has made clear that ensuring continuity of service is one central objective during these uncertain times, an equally important objective should be to limit the financial fallout on other carriers. Indeed, as Verizon noted in its petition, protecting the health of remaining carriers is entirely consistent with — *and is in fact*

[1/] The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., as listed in Appendix A.

[2/] Verizon Petition for Declaratory Emergency and Other Relief, WC Docket No. 02-202 (filed July 24, 2002) ("Verizon Emergency Petition" or "Petition").

essential to — the accomplishment of that objective.[3/] As Chairman Powell has explained, "[o]ne cannot think about long-term consumer benefits without also considering the long-term prospects of carriers that provide quality services to consumers."[4/] If solvent carriers must bear the losses generated by failing carriers, then the financial health of the remaining carriers will be weakened, as will their ability to ensure service to customers.

The overblown rhetoric of some commenters, who suggest that the proposals in Verizon's petition are a pretext for sabotaging competitors or an opportunistic effort to benefit from the industry's current travails, is unproductive, irresponsible, and simply wrong. The Commission should separate fact from fiction. The relief Verizon requests in its petition would simply ensure that *all* carriers in the industry have the same, commercially reasonable means of protecting themselves against losses from customers who are poor credit risks. For example, the specific tariff revisions proposed by Verizon (in Transmittal No. 226) are similar to provisions in the tariffs of other carriers, such as AT&T and WorldCom, that have most vigorously opposed Verizon's tariff revisions. In fact, Verizon has gone out of its way to address potential concerns by making its proposed security provisions more objective and less onerous than those in other carriers' tariffs, and by including additional provisions designed to provide greater flexibility when dealing with troubled carriers.

Specifically, Verizon's petition seeks the same types of commercially reasonable protections that are available to other companies at each of three stages of the process:

[3/] Petition at 3-4.

[4/] "Financial Turmoil in the Telecommunications Marketplace: Maintaining the Operations of Essential Communications," before the Senate Committee on Commerce, Science, and Transportation, 107th Cong., July 30, 2002, at 12 (statement of Chairman Michael K. Powell).

First, prior to the time that a carrier-customer declares bankruptcy, Verizon and other carriers that provide wholesale services to the customer need to be able to protect themselves against the accumulation of large, prepetition debts that may well become uncollectible when the customer files its bankruptcy petition. Verizon's proposed tariff revisions are narrowly tailored to accomplish that purpose. As noted in its petition, Verizon already possesses the right to require security deposits from carriers with a history of nonpayment and from those that lack established credit, as well as the right to suspend or terminate service for nonpayment. The revisions Verizon proposes merely would establish reasonable and objective criteria for requiring a security deposit, and would provide greater flexibility making clear that certain alternative means of protection are also available, such as advance payment arrangements or letters of credit. Far from being overreaching, the types of tariff protections proposed in Verizon's petition are reasonable and lawful, and are of the same kind as those that the Commission has allowed in the past. Accordingly, the Commission should declare here that the types of protections proposed by Verizon are lawful, and should allow Verizon's tariff revisions to go into effect promptly.

Second, if a carrier enters bankruptcy, Verizon and other underlying carriers need to be able to obtain adequate assurances that they will be paid for the services they continue to provide postpetition. To the extent the Commission participates in a particular bankruptcy proceeding, it should make clear that, just as it is important to maintain continuity of service to customers, it is equally important to ensure that carriers receive payment for any services they continue to provide during the course of the bankruptcy. Other service providers have this assurance because they can simply terminate service to the bankrupt carrier at any time. In contrast, regulated carriers are often expected to continue to provide service (and have in the past been

pressed either formally or informally by regulators to do so) under circumstances where other vendors would not. To the extent regulated carriers are expected to continue to provide service, it is critical that they receive adequate assurance of payment. The goal of a vibrant telecommunications industry is not served by transferring the losses of failing carriers to healthy ones. Thus, ensuring the reliable availability of service depends importantly on allowing carriers, *both large and small*, *local and long distance*, who serve other carriers to protect *their own* financial health. In addition, to avoid the repetition of past scenarios in which troubled carriers no longer can pay their bills and yet have neglected to provide their customers the required notice of discontinuance, the Commission needs to clarify the circumstances under which such notice of discontinuance must be given. At a minimum, such notice should be provided when carriers announce a sale of substantially all their assets, initiate an auction, convert from a Chapter 11 to a Chapter 7 bankruptcy, or at the latest when a carrier has only 30 days' worth of remaining cash on hand.

Third, at the conclusion of a bankruptcy proceeding or upon a sale of some or all of a carrier's assets, carriers acquiring existing service arrangements should not be allowed to exploit the interplay of bankruptcy and telecommunications law to evade their obligations under the Bankruptcy Code or binding federal tariffs. Verizon asks only that the Commission declare that *nothing in the Communications Act* denies carriers such as Verizon the same protection under bankruptcy law as is available to any other company in any other industry, namely, a cure of prior indebtedness when carriers assume existing service arrangements of bankrupt carriers. And to the extent carriers assume existing service arrangements outside of the context of bankruptcy proceedings, they must comply with the terms of binding federal tariffs that apply to all other customers. Likewise, when CLECs engage in customer transfers, Verizon merely asks the

Commission to require CLECs to provide the necessary information to coordinate carrier-to-carrier transfers efficiently and successfully.

For these reasons, the Commission should grant the relief sought in Verizon's petition.

II. RECENT EVENTS UNDERSCORE THE IMPORTANCE OF COMMISSION ACTION REGARDING CARRIERS' NEEDS FOR ADDITIONAL PROTECTIONS AGAINST THE THREAT OF NONPAYING CARRIER CUSTOMERS.

The conclusion is inescapable that the spate of bankruptcies, restatements, and other signs of financial turmoil are symptomatic of an *industrywide problem that affects **all** carriers.* By any objective measure, the scope of this problem is worsening and, if left to continue, will almost certainly cause even greater harm to many carriers' financial well-being. In light of these very serious and tangible concerns, Verizon and similar carriers should be permitted to implement protections similar to those utilized by firms in this industry and in others.

The financial problems of many carriers have only escalated since Verizon filed its petition. Following its bankruptcy filing, the largest in American history,[5/] WorldCom reported its discovery of an additional accounting error requiring the restatement of another $3.3 billion in earnings, bringing the tally to over $7 billion.[6/] Given that WorldCom alone incurs, by its own estimates, approximately $750 million *per month* in obligations to other telecommunications providers,[7/] it is unsurprising that WorldCom's status would significantly affect the finances of

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[5/] Linda Massarella, *WorldCom Declares Bankruptcy — Largest Ever*, N.Y. Post, July 22, 2002, at 2.

[6/] Kathy Brister, *World Com: More Fraud*, Atlanta Journal-Constitution, Aug. 9, 2002, at A1.

[7/] Objection of Verizon Communications Inc. to the Debtors' Motion Pursuant to Sections 105(a) and 366(b) of the Bankruptcy Code for Authorization to Provide Adequate Assurance to Utility Companies, ¶¶ 4, 18 ("Verizon Opposition to WorldCom Section 366 Motion") (*citing* WorldCom's Motion Pursuant to Section 105(a) and 366(b) of the Bankruptcy Code for Authorization to Provide Adequate Assurance to Utility Companies, ¶ 15).

other carriers. Indeed, Verizon has estimated that WorldCom alone owes Verizon more than $450 million in prepetition debt, and, based on historical usage, will incur in excess of $185 million *per month* in postpetition charges.[8/] As noted in the press, the WorldCom bankruptcy already "has caused many other telecommunications firms to revise their own financial reports, illustrating the financial interconnections in the industry."[9/]

While the turmoil surrounding WorldCom may be the largest and most dramatic manifestation of the trend, it represents merely the tip of the iceberg. More than 50 telecommunications firms have filed for bankruptcy in the past year,[10/] and of the 25 largest bankruptcy filings in the United States, 10 have been made by telecommunications companies.[11/] And the unfortunate fact is that additional bankruptcies unquestionably will follow.

One important dimension of this crisis is the dramatic rise in the uncollectibles figures of carriers that must continue to serve bankrupt and financially distressed carriers. For example, just the interstate portion of uncollectibles for carriers reporting on ARMIS 43-01 (mainly mid- and larger-size ILECs) rose to more than $282 million in 2001 — an increase of approximately 84% over the prior year alone. Verizon's own uncollectibles for interstate access services rose to approximately $140 million between 2000 and 2001, and can be expected to increase further in

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[8/] Verizon Opposition to WorldCom Section 366 Motion, ¶¶ 4, 39.

[9/] Jon Van, *Squabbles Could Dog WorldCom Recovery*, Chicago Tribune, Aug. 10, 2002, at 1.

[10/] *WorldCom's Painful Ruin Reveals Nation's Solid Core*, USA Today, July 23, 2002, at A12.

[11/] Gretchen Morgenson, *Bullish Analyst of Tech Stocks Quits Salomon*, N.Y. Times, Aug. 16, 2002, at A1.

2002.[12/] Moreover, the levels of *total company* uncollectibles reported in ARMIS (interstate and intrastate combined), for ILECs collectively and for Verizon individually, are many hundreds of millions of dollars larger. And the problem is a continuing one, as shown by the current level of past due receivables. Between December 2000 and July 2002, in fact, Verizon's wholesale receivables more than 90 days past due grew by more than 150 percent, and, as of July 2002, some 28 percent of wholesale receivables were 90 days or more past due (compared to approximately 7 percent of retail receivables 90 days or more past due during the same time frame).

The effects of this phenomenon, moreover, are hardly limited to larger carriers. As one paper recently noted, "Verizon has a point in saying that it isn't the only carrier hit by industry bankruptcies."[13/] Although the large carriers are WorldCom's biggest non-bank and non-bondholder creditors, the problem of uncollectibles and past due receivables generally, as well as those flowing from WorldCom's bankruptcy, probably affects small carriers even more.[14/]

In the face of these extraordinary developments, the Commission needs to do its part to stop the industry's hemorrhage by allowing *all* carriers to take the steps they need to protect themselves from the risk of carrier-customers' nonpayment of prepetition debt. Moreover, there is no real question that the Commission can provide by declaratory ruling the relief sought in this

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[12/] Reply Comments of Verizon to Petitions to Reject or Suspend and Investigate, *Verizon Telephone Companies Tariff F.C.C. Nos. 1, 11, 14, and 16*, Transmittal No. 226 (filed Aug. 7, 2002) ("Verizon Tariff Reply Comments"), at 2-3 (attached as Appendix B).

[13/] Fred O. Williams, *Stuck with the Bill*, Buffalo News, Aug. 4, 2002, at B13 (noting that Sprint is owed over $3.6 million by Adelphia and the figure continues to grow).

[14/] *See* NECA Comments at 2 (bankruptcy of large IXC like WorldCom arguably has larger effect on small, rural ILEC than it does on larger ILECs); Fred Williamson & Associates Comments at 2-3 (noting that IXC bankruptcies have a particularly deleterious effect on small ILECs); *see also* Jon Swartz, *WorldCom Woes Ripple Throughout Economies*, USA Today, Aug. 9, 2002, at B1.

proceeding. "The decision whether to proceed by rulemaking or adjudication lies within the [Federal Communications] Commission's discretion."[15/] "This is true 'regardless of whether the decision may affect agency policy and have general prospective application.'"[16/] Nor would the Commission be constrained from answering "abstract" questions, even if the important, concrete issues here were appropriately described as such.[17/] Indeed, declaratory relief is if anything more appropriate than rulemaking here, because of the need for speedy action.[18/]

III. THE COMMISSION SHOULD ALLOW CARRIERS SUCH AS VERIZON TO REVISE THEIR TARIFFS TO PROTECT THEIR ABILITY TO COLLECT AMOUNTS OWED FOR SERVICES PROVIDED BEFORE A CUSTOMER FILES FOR BANKRUPTCY.

Even before carriers go into bankruptcy, they can run up significant bills that may become uncollectible after they file for bankruptcy protection. If a previously solvent carrier's financial situation takes a turn for the worse and it goes into bankruptcy, it may owe Verizon and other carriers compensation for an appreciable period of time prior to the bankruptcy filing. For example, for services that are billed in arrears, a carrier already will have received 30 days' services before being billed, will then have *another* 30 days to pay, and, if it does not pay on the

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[15/] *N.Y. State Comm'n on Cable Television v. FCC*, 749 F.2d 804, 815 (D.C. Cir. 1984) (citing *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 294 (1974); *SEC v. Chenery Corp.*, 332 U.S. 194, 203 (1947)).

[16/] *Id.* (quoting *Chisholm v. FCC*, 538 F.2d 349, 365 (D.C. Cir. 1976)).

[17/] *Tenn. Gas Pipeline Co. v. Fed. Power Comm'n*, 606 F.2d 1373, 1380 (D.C. Cir. 1979) ("[A]n agency may, if authorized by statute, issue an advisory opinion or abstract declaration without regard to the existence of an actual controversy. The Administrative Procedure Act expressly permits such practices: 'The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy *or remove uncertainty*.'" (quoting 5 U.S.C. § 554(e)) (emphasis in opinion). 47 C.F.R. § 1.2, which is based directly on section 5(d) of the APA, provides the FCC with no less discretion.

[18/] Where "case-by-case battles" would result in "[o]nly paralysis," "[t]he comprehensive, rather than the individual, treatment may indeed be necessary for quick effective relief." *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 625-26 (1973).

due date, some additional period of time also may elapse. Even for services *billed* in advance, a carrier does not actually *pay* in advance, but rather has 30 days after being billed to pay (and, again, if it fails to pay on time, some additional period also may pass). The result is that even carriers that are not significantly in arrears may owe Verizon for 60 days' services at the time they go into bankruptcy — in some cases this can amount to more than $100 million.[19/] As a result, Verizon and other carrier-suppliers need to be able to protect themselves both when carriers are in arrears on their payments, and when other objective indicia of creditworthiness indicate a significant risk that they will not be able to continue paying their bills going forward.

It is sheer nonsense to claim, as some commenters do, that the level of wholesale uncollectibles being experienced by regulated carriers "are normal incidents of bankruptcy filings."[20/] They are "normal incidents" only for those few firms that are forbidden from implementing adequate protections against the accumulation of such bad debts. No sound public purpose is advanced by putting a subset of telecommunications carriers in such a box. They should have the same rights as others in the industry and in other industries.

The Commission's precedents do not require that carriers wait until today's serious problems become an industrywide catastrophe. The Commission should be receptive, as it has been in the past, to tariff revisions intended to minimize carriers' risk of nonpayment of prepetition debt.

[19/] *See supra* p. 6 (noting that WorldCom owes Verizon more than $450 million in prepetition debt and may incur additional charges at the rate of $185 million per month).

[20/] *See, e.g.*, Global Crossing Comments at 1.

A. Verizon's Tariff Revisions Mirror Those of Other Carriers and Are a Reasonable, Appropriate, and Minimally Disruptive Response to These Challenges.

Verizon's tariff revisions seek only the same types of protections that are routine in this industry and others. As one commenter noted, "[i]t is common practice for vendors in unregulated markets to request payment guarantees from customers that . . . are in financial trouble."[21/] In fact, WorldCom's trade creditors did just that upon learning of WorldCom's financial difficulties.[22/] WorldCom itself has sought such protections in other carriers' bankruptcies, including the Global Crossing proceeding.[23/] As reflected in Exhibit C to Appendix B (attached), provisions similar to (and in some respects broader than) those proposed by Verizon appear in the federal and state tariffs of carriers such as AT&T, WorldCom, Sprint, and US LEC.

The allegations made by some commenters that improper motives underlie the tariff revisions proposed by Verizon — that Verizon seeks to "[p]unish[] cartel cheaters" more easily[24/] or will use run-of-the-mill billing disputes as a pretext for instituting onerous payment conditions[25/] — are entirely baseless. The market and Verizon's tariff place several significant checks on any incentive it would have to do so. *First*, carriers have no interest in imposing restrictions that would deter customers from purchasing access services. *Second,* deposits

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21/ American Public Communications Counsel Comments at 5.

22/ *See* SBC Comments at 7 n.11 (citing news story noting that "nervous WorldCom suppliers have demanded upfront payment").

23/ *See id.* at 8 (noting that WorldCom asked for a two-month deposit in the Global Crossing bankruptcy proceeding).

24/ CompTel Comments at 7.

25/ *See, e.g.*, AT&T Comments at 19-20.

require Verizon to pay interest. *Third*, Verizon's tariffs already provide mechanisms for dispute resolution (and Verizon's proposed revisions would not alter those provisions), and Verizon must pay interest on disputed amounts that are resolved in favor of the customer.

The need for protections against uncollectibles, moreover, extends to carriers of *all* stripes, contrary to the protestations of some commenters. AT&T attempts to distinguish its own use of such provisions on the ground that it is not a "dominant" carrier, claiming that its deposit provisions are different because, "if the customer is not satisfied with the terms AT&T offers or the deposit AT&T requires, the customer can seek to obtain services from another provider," whereas the "customer of a dominant LEC . . . generally has no such choice."[26/] But under federal law, a supposedly "dominant" carrier has no choice: it *must* provide service to any carrier that meets the terms of its tariffs. To the extent that carriers such as Verizon are deemed to be "dominant," therefore, this status counsels in *favor* of allowing them the same protections as other carriers, not against it.

The Commission has long recognized carriers' need for such protections. It accordingly has been unwilling "to second guess a carrier's decision, with respect to a particular customer, to impose deposit, advance payment, or other security arrangements provided for in its tariff."[27/] And other suppliers can insist on deposits and/or advance payments. In short, there is no principled basis for denying any carriers — those under price caps or rate-of-return,[28/] or not rate-

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[26/] AT&T Comments at 13.

[27/] Memorandum Opinion and Order, *Affinity Network Inc. v. AT&T*, 7 FCC Rcd 7885, 7885 ¶ 3 (1992).

[28/] *Cf.* CompTel Comments at 4-5 (suggesting that tariff provisions minimizing risk against nonpayment are appropriate for rate-of-return carriers but not others).

regulated at all — the ability to limit their risk by employing the types of protections proposed by Verizon in its revised tariff (*see* Transmittal No. 226).

1. The Commission should declare that the types of protections proposed by Verizon are lawful and allow its tariff revisions promptly to go into effect.

Verizon and other regulated carriers should have at least the same opportunity to adopt commercially reasonable means of protecting themselves that other companies have — including other carriers such as the IXCs. The Commission should recognize both that there is a range of ways in which ILECs may so protect themselves, and that some protective measures in carriers' tariffs are so facially reasonable that they ought always to be allowed to go into effect. In particular, the Commission should declare that the types of protections proposed by Verizon are lawful and allow its proposed tariff revisions to take effect immediately.

Verizon's tariffs already permit it to impose security requirements if a customer fails to pay its bills or does not have established credit. Verizon's tariff revisions further delineate specific, objective criteria for invoking that protection, thereby providing added clarity and certainty for both Verizon and its customers. The assertions of AT&T and WorldCom that Verizon's proposals are vague[29/] or "unreasonable"[30/] are themselves that and nothing more — unsupported and unsupportable assertions. Verizon's proposals are, in fact, more definite and specific than the provisions in those carriers' own tariffs.[31/] And contrary to AT&T's claims that

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29/ *See* AT&T Comments at 10 (criticizing Verizon for failing to "describe[] the specific relief" sought in the Petition).

30/ WorldCom Comments at 6.

31/ *See, e.g.*, AT&T Tariff F.C.C. No. 30, § 3.5.5(A) (permitting imposition of security arrangements on carriers with an "unsatisfactory credit rating"); WorldCom Texas PUC Tariff No. 1, § 2.7 (permitting imposition of security arrangements on carriers "whose credit worthiness is not acceptable to the Company"); Sprint Schedule No. 11, § 2.11 (permitting imposition of

Verizon's proposed tariff revisions will allow it to "demand security deposits from any IXC," Verizon's proposals will become relevant only if a customer fails to meet certain *objective* criteria, including criteria established by independent financial services.[32/]

Specifically, Verizon's proposed tariff revisions are fully in sync with these general principles. They provide that a security deposit (or letter of credit) may be required on 10 days' written notice, or advanced payments may be required on seven days' written notice, under certain well-defined conditions. Those conditions are as follows:

- *Customer fallen into arrears 2 out of 12 months, or over $250,000 in arrears for more than 30 days*: Verizon already can, under its existing provisions, require security deposits in *either* of these instances.[33/] The proposed revision merely provides greater guidance as to the specific circumstances in which Verizon could impose the protections provided elsewhere in its tariffs.

- *Bankruptcy/public statement of inability to pay*: Under this provision, a deposit, advance payment, or letter of credit can be required if a customer declares that it is unable to pay its debts, or "has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it)."[34/] Contrary to some commenters' assertions,[35/] this provision would

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security arrangements on any carrier "whose credit has not been duly established to the sole and exclusive satisfaction of Sprint").

[32/] AT&T's own Standard and Poor's (BBB+), Fitch's (BBB+), and Moody's (Baa2) credit ratings, for example, are sufficiently above junk status to keep Verizon's tariff revisions from implicating AT&T at this time.

[33/] Verizon Tariff Reply Comments at 9-10.

[34/] Verizon Tariff F.C.C. No. 1, § 2.4.1(A)(2).

not affect bankrupt carriers' rights under the Bankruptcy Code upon its application.[36/] Similar provisions appear in the existing tariffs of Verizon and other carriers.[37/]

- *"Investment grade," as defined by independent third party*: This provision establishes a concrete, objective benchmark for insisting on additional payment protections, based on "nationally recognized statistical ratings organizations." The "investment grade" measure is used repeatedly in federal securities regulations[38/] and in many private contracts for very similar purposes. And unlike the tariff provisions of carriers like WorldCom, which allow the imposition of payment protections on customers "whose credit worthiness is not acceptable to the Company,"[39/] it leaves the determination of credit worthiness entirely in the hands of independent assessors. Even if many CLECs are at junk bond status,[40/] this provides *more*, not less, reason to allow Verizon to insist on greater payment protections. One commenter admitted that 10% of junk bond issuers default *each year*.[41/] That frequency of default justifies the additional protections sought by

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35/ *See, e.g.*, CTC Communications Corp., et al. Comments at 14; Covad Comments at 4.

36/ *See infra* Part II.B.

37/ Verizon Tariff Reply Comments at 11.

38/ *See, e.g.*, 17 C.F.R. § 240.3a1-1(b)(3)(v).

39/ WorldCom Texas PUC Tariff No. 1, § 2.7.

40/ *See, e.g.,* Time Warner Telecom Comments at 5 & n.3 (noting that "with few exceptions, CLECs . . . would have been subject to deposit and advance payment requirements based on . . . [debt rating] criteria").

41/ WorldCom Comments at 6.

Verizon. Falling below investment grade status also can trigger payments and security obligations in commercial credit arrangements. Without the ability to protect itself, a carrier runs the risk of moving further behind other creditors.

2. The advance payment and other protections sought by Verizon are reasonable.

As noted, Verizon's existing tariffs already permit the company to require a security deposit of up to two months for any carrier that demonstrates a heightened risk of nonpayment. Verizon's proposed revisions would make clear that additional options are available when dealing with financially troubled carriers, namely advance payments and letters of credit, which it may use when its customers demonstrate objective indicia of risk. These proposals would provide Verizon with the flexibility to adopt a variety of precautions against nonpayment, and to tailor its protective measures in a fashion that minimizes any disruption of the cash flow of its customers. Many of the carriers that have sought to block the proposed revisions employ similar protections in their own tariffs; that of course underscores the reasonableness of Verizon's proposals (and the hollowness of those other carriers' arguments).

As outlined in its recent transmittal, Verizon's tariff proposals would allow it to take the following measures:

- *Deposits*: Under its existing tariffs, Verizon already may impose security deposits on customers showing signs of risk of nonpayment. As discussed above, Verizon's proposed tariff revisions delineate the objective circumstances under which it may impose this requirement.

- *Advance payment option*: This feature provides an alternative form of protection, and could be imposed in lieu of a security deposit.[42/] For a customer facing a cash shortage as the result of financial difficulty, the advance payment provision would have no different effect on cash flow from payments made in arrears; payments would simply be made at the beginning of a month's service rather than at the end. Even AT&T, which has similar provisions in its Tariff F.C.C. No. 30,[43/] acknowledges in this proceeding that advanced payments are appropriate when "there are questions regarding the debtor's solvency."[44/]

- *Letter of credit option*: This protection provides an additional option that prevents distressed carriers from making additional cash outlay, and therefore can be, in certain situations, much less costly to the distressed carrier. Like advance payments, letters of credit may have essentially no effect on cash flow, and may therefore be the optimal form of protection in certain situations.

Verizon's proposed revisions also reduce the notice period for discontinuance from 30 days to seven days. This does not mean that a customer necessarily will lose service seven days after payment is due. But once it is clear that a customer is not going to pay what it owes, a carrier should be able to staunch the bleeding promptly rather than be obliged to provide free service for another 30 days.

[42/] Verizon Tariff Reply Comments at 17.

[43/] *See* Appendix B (Tariff Reply Comments), Exhibit C (Comparison of Deposit and Advance Payment Requirements in Proposed Verizon Tariffs & Example Competitor Tariffs) at 4.

[44/] AT&T Comments at 22 (citing cases).

The seven-day notice period for discontinuing or refusing additional service (absent additional assurances of payment) is designed to reflect the fact that customers' financial circumstances can change quickly. This seven-day period would be in addition to the mandatory 30-day waiting period after issuing a bill (since notice could be issued only after bills are already overdue), and normally would be triggered only after it is clear that a customer is unable or unwilling either to pay its bill or to provide appropriate assurances of payment.[45/] Moreover, the seven-day period is consistent with and in some cases even more forgiving than what other carriers have in their tariffs. For instance, under AT&T's F.C.C. Tariff No. 30, if a customer refuses to make advance payments, AT&T may, upon written notice, "*immediately* . . . restrict, suspend, or discontinue providing the service."[46/] Contrary to claims that thirty days' notice is "essential,"[47/] the Commission has permitted carriers to shorten their notice period from 30 days to 15 days.[48/]

B. The Protections Verizon Seeks Are Appropriate to the Tariff Revision Process.

The use of tariff revisions to further the goal of payment security is entirely appropriate. One commenter confuses the issue by claiming that "Verizon may not use its tariffs, and the Commission should not condone the use of tariffs, to 'ensure adequate assurance of payment,'" and that such tariffs would "usurp the discretion of the federal bankruptcy courts and would

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[45/] Indeed, in most instances, service would not be terminated for at least two months after the bill is issued.

[46/] AT&T Tariff F.C.C. No. 30, § 3.5(H) (emphasis added).

[47/] WorldCom Petition to Reject or Suspend and Investigate Proposed Tariff Revisions, *Verizon Telephone Companies Tariff Nos. 1, 11, 14 & 16* (filed Aug. 1, 2002), at 3.

[48/] Memorandum Opinion and Order, *Annual 1987 Access Tariff Filings*, 2 FCC Rcd 280, 290 App. A (1986) (permitting BellSouth to shorten its notice period for discontinuance in light of the bankruptcy of "some" IXCs from 30 to 15 days).

therefore be void and unenforceable."[49/] This is wrong for two reasons. First, Verizon's proposed tariff revisions would provide assurance of payment not just during bankruptcy, but would provide such assurances *before* bankruptcy. As explained above, this is necessary to avoid building up large unpaid bills that then become uncollectible once a carrier-customer does declare bankruptcy.[50/]

Second, while the proposed revisions also provide for assurances of payment when a carrier-customer declares bankruptcy, Verizon previously has explained at length that this is fully consistent with bankruptcy law. Indeed, existing tariffs of Verizon and other carriers already include provisions setting bankruptcy as one trigger for requiring a deposit.[51/]

C. The *1984 Access Tariff Order* Did Not Constitute a "Rate Prescription," and Verizon's Tariff Revisions Do Not Materially Alter Term Plans.

The large IXCs[52/] are simply wrong when they contend that the *1984 Access Tariff Order* constitutes a rate prescription.[53/] Indeed, even the out-of-context language to which the IXCs point does not clear the high bar necessary to establish a rate prescription: "[A]n agency statement has not been found to be a prescription absent explicit language that nonconforming tariffs will be rejected, combined with an agency motive to avoid public scrutiny and perhaps

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[49/] CTC Communications Corp., et al. Comments at 14-15.

[50/] *See supra* Part II.A.2. Whether a creditor has sought a deposit prepetition also informs a bankruptcy court's decision as to whether to allow one postpetition. *Va. Elec. & Power Co. v. Caldor, Inc.-NY*, 117 F.3d 646, 650-51 (2d Cir. 1997) (allowing the bankruptcy court discretion within the context of individual bankruptcies to determine what constitutes "adequate assurance of payment").

[51/] Verizon Tariff Reply Comments at 10.

[52/] *See* AT&T Comments at 10-14; WorldCom Comments at 5; Sprint Comments at 2-3.

[53/] *See* Verizon Tariff Reply Comments at 25-27 (explaining in detail why the *1984 Access Tariff Order* does not constitute a rate prescription).

even judicial review."[54/] In this case, not only did the 1984 Access Tariff Order *not* contain "explicit language that nonconforming tariffs will be rejected," but after it was issued the Commission has allowed tariffs with additional deposit conditions to become effective.[55/] Furthermore, the 1984 Access Tariff Order is not on point, because it dealt with the requirement that IXCs establish credit with each and every RBOC — a proposal the Commission rejected.[56/]

Similarly, the tariff revisions in Transmittal No. 226 do not, as some commenters assert,[57/] alter the operative conditions of the term plans — the rates, volumes or length of the term plans. Indeed, under the term plans themselves, the changes that will warrant early termination are material changes to *rates*. Consequently, the proposed revisions at issue here do not alter the term plans themselves at all.[58/]

Moreover, even if the revisions were considered (incorrectly) to modify some aspect of the term plans, the revisions still would not be of the type the Commission has considered to be "material."[59/] Instead, most of the revisions simply flesh out the situations in which Verizon can reduce the risk of nonpayment and the form that protection will take. In large part, these

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[54/] *Direct Marketing Ass'n, Inc. v. FCC*, 772 F.2d 966, 971 (D.C. Cir. 1985).

[55/] *See* Verizon Tariff Reply Comments at 27.

[56/] *See id.* at 25-27.

[57/] Time Warner Telecom Comments at 11-12.

[58/] *See, e.g.*, Verizon Tariff FCC No. 1, § 7.4.13(C) ("In the event that the Telephone Company initiates a *rate increase* and the total discounted monthly rate for the affected service increases by eight percent (8%) or more, the customer may cancel its TPP for the affected service without termination liability.").

[59/] *See, e.g.*, *AT&T Communications Contract Tariff No. 374*, 10 FCC Rcd 7950, 7952 (1995) (proposing to modify contract price and volume discount); Memorandum Opinion and Order, *RCA American Communications, Inc. Revisions to Tariff F.C.C. Nos. 1 and 2*, 86 FCC 2d 1197 (1981) (considering proposals to "substantially" increase tariff rates or shorten the service of tariff terms).

provisions either echo steps that Verizon can already take pursuant to the tariff (or if the customer files for bankruptcy), clarify when they will be invoked, or offer opportunities for assurance that are *more* favorable to the customer than existing provisions.[60/] Indeed, the concept of allowing a party to require protection against nonpayment is one that is often implied as a matter of law in commercial contracts, even if the contract is silent as to those terms.[61/] And for customers that make timely payments and are creditworthy, Verizon's proposed revisions will have no effect at all. Under the current circumstances, the tariff revisions cannot be of the type that result in "surprise or hardship,"[62/] and thus are not material.

Finally, even if the tariff revisions were deemed material, there is "substantial cause" to permit the revisions. In applying that test, the Commission determines whether the tariff revisions are reasonable, weighing both the "carrier's explanation of the factors necessitating the desired changes at that particular time," and the "position of the relying customer."[63/] The current economic climate — which has shown an explosive growth in carrier uncollectibles — makes the revisions proposed by Verizon absolutely essential. The changes are specifically designed to provide certainty and, in many cases, allow the customer more flexibility than current provisions. Under these circumstances, Verizon has shown substantial cause for the tariff revisions.

60/ *See* Verizon Tariff Reply Comments at 27-29.

61/ *See, e.g.*, Restatement (Second) of Contracts § 251; U.C.C. § 2-609(1).

62/ U.C.C. § 2-207, Official Comment 4 states that a modification to a contract is "material" if it would result in "surprise or hardship." Although the Commission does not have to follow this test, it has held that basic contract and commercial transactions law is "highly relevant" in examining whether contract terms are just and reasonable. *See* Order, *Tariff Filing Requirements for Nondominant Common Carriers*, 10 FCC Rcd 13653, 13655-56 ¶ 14 (1995).

63/ *Hi-Tech Furnace Sys., Inc. v. FCC*, 224 F.3d 781, 791 (D.C. Cir. 2000) (*quoting RCA American Communications, Inc.*, 86 FCC 2d 1197, 1201 (1981)).

IV. TO THE EXTENT THE COMMISSION PARTICIPATES IN BANKRUPTCY PROCEEDINGS, IT SHOULD MAKE CLEAR THAT A CRITICAL OBJECTIVE IS TO ENSURE THAT ANY CARRIER THAT CONTINUES TO PROVIDE SERVICE TO BANKRUPT CARRIERS IS PAID.

Once a carrier files for bankruptcy, it is critical that carriers that continue to provide service get paid for those services. The problem, of course, is that, if Verizon and other carriers do not receive a reasonable assurance of payment for postpetition services they provide, and if the bankrupt carrier runs out of funds during the course of the proceeding, they run the risk of having provided services for free. The longer Verizon is forced to provide services with no hope of recovering its costs, the greater the bad debt loss. This is a significant concern. Debtor-in-possession lenders typically can cancel their credit arrangements with only a few days notice upon a default of any loan condition by a bankrupt carrier.[64/] If that happens, the bankrupt likely will not be able to pay its bills. Yet the bankrupt also may not have given the notices required by the Commission and state commissions to terminate service.[65/] If that happens, as it has in prior bankruptcies, regulators commonly press regulated carriers such as Verizon (either formally or informally) to continue providing service to give customers of the bankrupt carrier time to make

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64/ For instance, the proposed debtor financing agreements in the WorldCom bankruptcy would give the postpetition lenders the right to terminate financing on only five days' notice upon the occurrence of any one of a long list of items of default. *See* Verizon Opposition to WorldCom Section 366 Motion, ¶ 7.

65/ Under the relevant Commission regulations, a domestic nondominant carrier may not cease providing interstate services without special authorization from the Commission. If it has filed an acceptable Commission application and issued an end-user notification at least 30 days prior to service withdrawal, such authorization is deemed to have been granted on the thirty-first day, *unless* the Commission determines that public convenience and necessity require otherwise. *See* 47 C.F.R. § 63.71. Some states require even longer notice periods. New York, for example, requires 60 days' advance notice to end users and 90 days' advance notice to the state public service commission. *See* Mass Migration Guidelines, Revised and Ordered by the New York Public Service Commission, Nov. 28, 2001. Similarly, Pennsylvania requires notice of 37 business days. *See* Final Order, *Interim Guidelines Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunications Companies*, Pennsylvania Pub. Util. Comm'n, Docket No. M-00011582F0004, at 10 entered April 23, 2002.

alternative arrangements.[66/] That eventuality leaves Verizon without any ability to be compensated, potentially for many millions of dollars. Although WorldCom is an extreme example, it is worth noting again that it purchases approximately $185 million *per month* in Verizon services alone.

Indeed, this occurred in the Winstar case in Delaware in spite of some bankruptcy court protections. Verizon actually had in place an order pursuant to section 366 providing for (i) semi-monthly prepayments of the net amount owed to Verizon, (ii) a small deposit, and (iii) the right to terminate service on two business days' notice if the debtor failed to make one of the prepayments. But after the debtors failed to pay Verizon and various other telecommunications carriers, and notwithstanding orders permitting the carriers to terminate service and the failure to pay, the debtors sought (with Commission support) and received an injunction prohibiting the carriers from terminating service.[67/] Likewise, in the Telergy case in the Northern District of New York, contrary to the bankruptcy court's order, the Chapter 11 debtor failed to make required prepayments and other payments to Verizon. The debtor then converted to Chapter 7. Nevertheless, the bankruptcy court, with the support of the Commission and state agencies, required Verizon to continue providing service to Telergy.[68/] And in the PICUS bankruptcy case,

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[66/] Indeed, in recent cases, the Commission has acted to delay the service discontinuance beyond the 30 days prescribed. *See, e.g.*, Order, *E.Spire Application to Discontinue Domestic and International Telecommunications Services*, Comp. Pol. File No. 592, 2002 WL 1782176, at ¶ 2 (FCC Aug. 2, 2002) (denying application to discontinue service with respect to certain customers, until such customers have 'a reasonable period of time', not to exceed an additional 29 days, to migrate to other carriers); Order, *Telergy Network Services, Inc., Telergy Metro LLC, and Telergy Central, LLC Section 63.71 Joint Application To Discontinue Domestic Telecommunications Services*, NSD File No. W-P-D-547, 2002 FCC LEXIS 213 (FCC Jan. 14, 2002) (extending the 30 day notice period for at least eight more days).

[67/] Verizon Opposition to WorldCom Section 366 Motion, ¶ 33.

[68/] *Id.* ¶ 34.

due to pressure from the Virginia Commission, Verizon continued providing service to the debtor for two and a half months after it originally announced its intention to discontinue service.[69/] These examples illustrate the magnitude of the problem. Other creditors can protect themselves from a debtor's nonpayment simply by terminating service; if Verizon is to be expected to continue to provide service to bankrupt customers, then Verizon too needs reasonable protection.

Those commenters that address the issue overwhelmingly agree that, to the extent the Commission participates in bankruptcy proceedings, it should support carriers' efforts to obtain truly adequate assurance of payment by making clear to the court that, while continuity of service is an important concern, the ability of carriers to get paid for any services they continue to provide is equally important, and also serves to promote continuity of service. Support for this obvious fact comes not only from other large ILECs[70/] but also from telecommunications trade organizations,[71/] small ILECs,[72/] IXCs,[73/] and even CLECs.[74/] Specifically, there is great backing for the proposition that the Commission — in those bankruptcy proceedings in which it participates — should support the right of carriers to receive payment in advance or other similar

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[69/] Order Terminating Investigation, *In re Investigation of Provision of Service of PICUS Communications of Virginia, Inc.*, Case No. PUC000325 (Virginia State Corporation Commission Feb. 15, 2001).

[70/] SBC Comments at 9-11; BellSouth Comments at 4-5.

[71/] USTA Comments at 5-6; NTCA Comments at 1, 4; NECA Comments at 6-7.

[72/] Independent Alliance Comments at 4; Mid-Size Carrier Group at 12-13; Fred Williamson & Associates Comments at 2.

[73/] Sprint Comments at 7-8.

[74/] Time Warner Comments at 13-14.

protections to obtain adequate assurance of payment for services provided during the pendency of their carrier-customers' bankruptcy proceedings.

Those few commenters who oppose this relief either mischaracterize Verizon's petition as asking the Commission to act as ILEC "co-counsel" in bankruptcy proceedings[75/] or "to lecture the Bankruptcy Courts on the meaning of the Bankruptcy Code."[76/] These commenters all miss the point of Verizon's petition.

Verizon is by no means asking the Commission to stand in as co-counsel before bankruptcy courts. Nor does Verizon seek to have the Commission advise bankruptcy courts on *bankruptcy* law. Verizon merely asks that, *in those proceedings in which the Commission does participate*, it make clear that it is critical from a public policy perspective that any carriers that continue to provide service to bankrupt carriers should receive adequate assurances that they will be paid for those services.

Likewise, Verizon is not asking the Commission to determine in a factual vacuum what constitutes adequate assurance in any particular bankruptcy case.[77/] The bankruptcy judge presiding over the individual proceeding is vested with that authority.[78/] But if the Commission is going to participate in a proceeding, it should aid the judge in making that determination. That is, the Commission should clarify that telecommunications policy is undercut when bankruptcy courts do *not* provide carriers with truly adequate assurance of payment, such as security deposits and advance payment arrangements. This need not necessarily occur on a case-by-case

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[75/] WorldCom Comments at 7-9.

[76/] Global Crossing Comments at 8; *see also* Covad Comments at 4; Nextel Comments at 9; AT&T Comments at 21-23; CompTel Comments at 8.

[77/] *See* AT&T Comments at 21; WorldCom Comments at 7-8; Nextel Comments at 9.

[78/] *Caldor, Inc.-NY*, 117 F.3d at 650.

basis. Indeed, by granting the relief requested in Part IV, *infra*, the Commission can greatly reduce the need to provide the same telecommunications advice time and again to the presiding judge in each new telecommunications bankruptcy proceeding.

Timely notice need not lead to massive customer defections or destroy the value of the estate. Indeed, carriers have provided such notice to their customers without adverse effect. For example, when Rhythms filed its Chapter 11 petition, it notified its customers of that fact, warning of possible termination of service, and kept them informed of the progress of the bankruptcy proceedings and efforts to sell all assets. When Rhythms' assets were bought by another carrier, few of Rhythms customers had terminated service.[79/]

Finally, as Verizon noted in its Counter-Petition in WC Docket No. 02-80, it is critical that the Commission issue a declaration of the circumstances under which carriers in bankruptcy are obligated to provide notice of possible discontinuance or transfer to their customers. Timeliness of such notice is important to avoid gamesmanship and to ensure that customers enjoy uninterrupted service. This requirement should be triggered by any occurrence that objectively signals that likelihood of an impending change in service. Thus, such notice should be given when a carrier in Chapter 11 initiates an auction of its assets, when a carrier files a motion for sale or acceptance of a purchase agreement, and when a carrier converts from a Chapter 11 bankruptcy to one under Chapter 7. Likewise, such notice should be given *at the latest* when the bankrupt carrier has only 30 days remaining cash on hand to support continuing operations. And if a purchasing carrier decides to reject the bankrupt carrier's underlying service

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[79/] *See* Comments and Counter-Petition of Verizon, *In the Matter of Winstar Communications, LLC, et al.*, WC Docket No. 02-80 (filed April 29, 2002), at 21 ("Winstar Comments and Counter-Petition"); *see also* Reply Comments of Verizon in Support of Counter-Petition, WC Docket No. 02-80 (filed May 17, 2002), at 15 (attached hereto as Appendix C).

arrangements, it is similarly essential that timely notice be given to customers whose service is affected by the rejected arrangements. *See* Winstar Comments and Counter-Petition, at 26.

V. DURING SALES OF CARRIER ASSETS DURING OR AT THE CONCLUSION OF BANKRUPTCY PROCEEDINGS, THE COMMISSION SHOULD EXPLICITLY CLARIFY THAT THE COMMUNICATIONS ACT DOES NOT ALTER CURE OBLIGATIONS UNDER THE BANKRUPTCY CODE, AND SHOULD REQUIRE CLECS TO COORDINATE CUSTOMER TRANSFERS.

When a carrier bankruptcy moves toward resolution, and the bankrupt CLEC seeks to transfer customer or service arrangements to third parties, underlying carriers such as Verizon face a third set of issues. First, some purchasers of existing service arrangements have claimed that the 1996 Act overrides and relieves them of "cure" obligations under section 365 of the Bankruptcy Code and the provisions of Verizon's federal tariffs. Second, CLECs have failed to provide Verizon with timely or adequate information to handle CLEC-to-CLEC transfers efficiently. The Commission should take specific steps outlined below to remedy these problems.

A. The Commission Should Unambiguously Declare That the Communications Act Does Not Adversely Affect Carriers' Rights under Section 365 of the Bankruptcy Code.

The comments strongly confirm the importance of Verizon's request for a definitive clarification that carriers assuming existing service arrangements of bankrupt carriers must pay a cure of prior indebtedness on those arrangements, consistent with section 365 of the Bankruptcy Code and Verizon's federal tariffs. The Commission should explicitly repudiate carriers' attempts to game the interplay of communications and bankruptcy law in order to shirk obligations under the Bankruptcy Code or Verizon's binding federal tariffs. Such clarification will ensure that underlying carriers are afforded the same rights and protections as other companies.

Several commenters explicitly endorsed Verizon's request for a declaration concerning cure obligations, noting that there is no statutory or policy basis for an exemption for carriers from the Bankruptcy Code's cure obligations.[80/] These commenters recognize the real potential for inequity and abuse if purchasers of service arrangements were to succeed on their specious claims that telecommunications law trumps normal cure obligations.[81/] And opponents of Verizon's request merely demonstrate the confusion they can sow before bankruptcy courts through their misleading arguments.[82/] The bottom line is that, if acquiring carriers can continue to frustrate cure requests, underlying carriers will be left with substantial losses while acquiring carriers serving customers of bankrupt carriers will receive the full benefit of the bankrupt carrier's service arrangements. No commenter has identified any valid reason for allowing this result or for denying Verizon's request for clarification.

Section 365 of the Bankruptcy Code provides that, where a buyer assumes the service arrangements of a bankrupt carrier, the debts incurred by the bankrupt carrier must be cured. Similarly, under Verizon's federal access tariffs, if one carrier assigns its service arrangements to another carrier, the second carrier must assume the outstanding debts of the first carrier for the assigned service arrangements.[83/]

[80/] *See* Bell South Comments at 5-6; USTA Comments at 6-7; SBC Comments at 11-14; NECA Comments at 6.

[81/] *See, e.g.*, BellSouth Comments at 6 (noting that "common carrier status diminishes [carriers'] ability to protect themselves when initiating service to a new subscriber and means that debts avoided by bankrupt entities will ultimately burden the remaining universe of users").

[82/] *See* AT&T Comments at 23-25; WorldCom Comments at 9-12; Global Crossing Comments at 9-10; CompTel Comments at 8-12; CTC Communications Corp., et al. Comments at 10-13.

[83/] Specifically, Verizon's tariff provides that when a customer transfer occurs with no relocation or interruption of services, the "assignee or transferee assumes all outstanding

Some carriers have recently attempted to avoid these provisions by claiming that some type of exemption from them exists in the context of carrier bankruptcies. In the recent Winstar proceedings, IDT Winstar ("IDT"), the company assuming the service arrangements of Winstar Communications, Inc. ("Winstar"), argued that "Telecom Law" allowed IDT to assume Winstar's service arrangements without any cure obligations.[84/] Similarly, in the Net2000 bankruptcy proceedings, Cavalier attempted to assume control of Net2000's special access arrangements while circumventing any post-sale obligations, leading the bankruptcy court to reserve judgment on whether Cavalier was responsible for Net2000's tariff liabilities under the Communications Act.[85/]

The Commission can and should put a stop to these efforts to manipulate the bankruptcy process. To do so, the Commission need merely declare

(1) that the Communications Act does *not* except carriers from the rights afforded by section 365 of the Bankruptcy Code; and

(2) that where one carrier wishes to take over another's service arrangement with nothing more than a name change, that constitutes "an assignment or transfer" within the meaning of Verizon's tariffs, so that the assignee/transferee carrier must assume the outstanding indebtedness of the prior carrier for such services.

A few commenters pretend to have found ambiguity in Verizon's straightforward request for such clarification. They claim that Verizon is asking the Commission to make

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indebtedness for such services, and the unexpired portion of the minimum period and the termination liability applicable to such services." Verizon Tariff F.C.C. No. 1, § 2.1.2(A)(1).

84/ *See* Winstar Comments and Counter-Petition, at 10.

85/ *See* Reply Comments of Verizon in Support of Counter-Petition, filed in WC Docket No. 02-80 on May 17, 2002 at n.13; *In re Net2000 Communications Inc.*, Bankr. D. Del., Case No. 01-11324-11334, Chapter 11 ("*In re Net2000*"), Transcript of Omnibus Hearing Before the Hon. Mary F. Walrath held Jan. 18, 2002 at 17-18; *In re Net2000*, Order Regarding the Emergency Motion of the Operation Subsidiaries of Verizon Communications Inc. to Require Debtors and Cavalier Telephone Company to Cure Defaults Under the Debtors' Contracts With Verizon and for Contempt, Feb. 12, 2002.

pronouncements on substantive bankruptcy law,[86/] such as whether specific arrangements qualify as "executory contracts"[87/] or what amount of cure must be paid and when.[88/] That is simply false. Such logistical matters would of course be left to the bankruptcy courts to determine in individual proceedings. In particular, and contrary to WorldCom's assertion, Verizon does not suggest that a bankrupt carrier may not choose to reject any of the bankrupt's service arrangements.[89/] But if the acquiring carrier has the bankrupt reject service arrangements in bankruptcy, it must either assume existing arrangements outside of bankruptcy (in which case those arrangements would be subject to Verizon's tariff terms regarding assignment of existing service arrangements), terminate service to any customer it no longer wishes to serve and allow the customer to choose another alternative, or enter into a new service arrangement (transferring customers via the normal carrier-to-carrier transfer procedures).[90/]

Global Crossing warns that the Commission's obligation to coordinate with other federal laws and policies does not give it "*carte blanche*" to interfere with bankruptcy matters.[91/] But it is not Verizon that seeks to interfere with bankruptcy law; it is CLECs, such as IDT and Cavalier, that have claimed that the Communications Act denies Verizon and other carriers the normal rights under section 365 of the Bankruptcy Code. Nor could the clarification that Verizon requests (regarding the Communications Act) enable ILECs or other underlying carriers

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[86/] WorldCom Comments at 10-12; AT&T Comments at 23-24; CompTel Comments at 8.

[87/] WorldCom Comments at 10.

[88/] Global Crossing Comments at 9.

[89/] WorldCom Comments at 10.

[90/] Verizon Emergency Petition at 9. Such a carrier would not be obligated to cure the debts owed on contracts that it did not assume.

[91/] Global Crossing Comments at 8.

to take unfair advantage of CLECs or otherwise abuse the bankruptcy process.[92/] Bankrupt carriers may choose whether or not to assume existing service arrangements for the benefit of purchasers.[93/] If a contract is not assumed, the bankrupt (and its purchaser) will have no cure obligations (and will not receive the benefits of the contract). Alternatively, if the carrier assumes a service arrangement, the associated indebtedness of the bankrupt carrier must be cured. In every instance, the purchasing carrier will have the opportunity to evaluate these options and select the one that best meets that purchaser's objectives.

There similarly is no basis for Global Crossing's claims that Verizon's "real" motivation is to impede the transfer of customers between CLECs.[94/] If a carrier decides not to assume the bankrupt carrier's contracts (and the attendant obligation to cure), then the customer can be transferred to its new carrier of choice, just like any other CLEC-to-CLEC transfer. Characterizing this as imposing a "disconnect-reconnect" regime[95/] merely avoids the issue whether purchasing carriers should be entitled to assignment of bankrupt carriers' service arrangements without any of the liabilities that normally accompany such a transaction under the Bankruptcy Code and Verizon's tariffs.

Likewise, the claims that the underlying carriers will engage in anticompetitive behavior and demand unjustifiably large cure payments are unfounded.[96/] The details of cure payments

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92/ *See* CompTel Comments at 9-11; WorldCom Comments at 11; Global Crossing Comments at 9-10.

93/ *See* Verizon Emergency Petition at 9.

94/ Global Crossing Comments at 10-11.

95/ *Id.* at 9.

96/ CompTel Comments at 9-11; WorldCom Comments at 11-12; Time Warner Comments at 16-17.

will be settled in bankruptcy court, as is typically done in such proceedings. WorldCom's fears that the underlying carriers will extort large payments based on threats of disconnection and, that in the ensuing "logistical nightmare," customers will abandon CLECs in favor of the ILEC, fail to recognize that the bankrupt carrier and its successor will have the protection and oversight of the bankruptcy courts as well as the Commission, both of which will be available to settle any such claims.

B. The Commission Should Require Coordination of CLEC-to-CLEC Customer Transfers.

No commenter advances any reasoned objection to Verizon's request that the Commission require CLECs to coordinate their connect and disconnect orders and identify carrier-to-carrier transfers. Although certain commenters claim that Verizon's request is unclear,[97/] it is in fact straightforward and uncontroversial: Because ILECs are significantly burdened when carriers do not properly coordinate large transfers of customers, the Commission should modify its discontinuance rules. Specifically, the Commission should require the new CLEC to identify, in applications for new service, customer transfers from existing service arrangements and to provide the circuit identification number for the existing service.

Identification of the existing circuit identification number is essential information for an efficient customer transfer, and only the transferor carrier has that information. The transferor must provide that information either directly to Verizon or to the new CLEC, which must, in turn, provide it to Verizon. Without this information, an underlying carrier has no way of matching a specific telephone number to a particular loop or circuit. The reasonableness of Verizon's request is confirmed by BellSouth, USTA, Sprint, and the New York Department of

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[97/] AT&T Comments at 25; Global Crossing Comments at 11.

Public Service ("DPS"), each of which recognizes the efficiencies that Verizon's request would bring.[98/]

In particular, the New York DPS, which recently adopted Mass Migration Guidelines addressing similar issues, argued that the "delineation of responsibility" proposed in Verizon's petition "is necessary to avoid confusion and service interruption."[99/] The DPS's Mass Migration Guidelines are intended to address the problem that "in the unique circumstances of a 'mass migration,' when many customers must be moved from a carrier exiting the market, . . . ordinary procedures don't suffice."[100/] These guidelines supplement New York's requirement that the new carrier send appropriate notification to the underlying carrier in any customer transfer. Such guidelines provide needed certainty. In Verizon's experience, for example, where carriers have failed to provide such coordination, the result has been delay and in some circumstances inadvertent disconnection of end-user circuits.

Global Crossing is simply wrong in claiming that CLEC failures to coordinate mass transfers with ILECs produce no serious burdens and inefficiencies for ILECs.[101/] When customer transfers are not properly coordinated in advance, Verizon will likely install a new loop for a customer transfer, and both Verizon and the new CLEC must send a service technician to the customer location to establish service. The addition of new capacity risks leaving existing capacity stranded when the previous carrier disconnects its service. With identification of the existing service circuit information, however, Verizon can transfer a customer promptly at the

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[98/] BellSouth Comments at 7; USTA Comments at 7-8; Sprint Comments at 8-9; New York Department of Public Service Comments at 3-4.

[99/] New York Department of Public Service Comments at 3.

[100/] *Id.*

[101/] Global Crossing Comments at 11; *see also* Verizon Emergency Petition at 10.

central office. Particularly in the case of mass customer transfers, the risk of inefficiencies and wasted facilities investment is significant and costly.

Time Warner's suggestion that the ILEC should assume responsibility for any needed coordination misses the point.[102/] The ILEC lacks the necessary information to determine whether a mass customer transfer is planned, and it would make no sense for the ILEC to contact CLECs to determine whether certain orders are part of a mass customer transfer. Requiring CLECs to identify transfers and provide circuit identification of the existing service would give ILECs the information needed to transfer customers as efficiently as possible.

Finally, claims of AT&T and Global Crossing that such coordination by CLECs would enable ILECs to win back customers, impede transfers, or otherwise engage in anticompetitive conduct are a *non sequitur*.[103/] CLECs are sufficiently protected against any alleged attempts to win back customers or other attempts to interfere with CLEC-to-CLEC customer transfers. Although Global Crossing claims that Verizon's "real" motivation is an unwillingness to transfer billing records in situations of assets acquired during bankruptcy,[104/] ILECs ultimately have that obligation regardless of CLEC coordination during customer transfer. CLEC coordination would give the ILEC no further opportunity or incentive to resist transfer of billing records.

Conclusion

In conclusion, Verizon requests that the Commission grant Verizon's petition and provide the proposed guidelines to assist the industry during this time of turmoil.

[102/] Time Warner Comments at 18.

[103/] AT&T Comments at 25-26; Global Crossing Comments at 11. In particular, AT&T's reference to an anti-slamming message played to customers transferred by SBC has no relevance.

[104/] Global Crossing Comments at 11.

- To prevent the build-up of carrier debt before bankruptcy, the Commission should articulate criteria against which financial protection provisions can be evaluated in tariff proceedings, affirmatively identify a range of provisions that will always be deemed reasonable, such as those in Verizon Transmittal No. 226, and allow those provisions to go into effect;

- To the extent that the Commission participates in bankruptcy proceedings, it should make clear that it is critical from a public policy standpoint for carriers that continue to provide service to get paid for those services, and the Commission should support the efforts of carriers to obtain adequate assurances of payment. The Commission also should clarify the circumstances under which carriers in bankruptcy are obligated to provide notice of possible discontinuance or transfer to their customers, and it should recognize that the interest in ensuring continuity of service is advanced by those efforts; and

- To prevent carriers from gaming the system during the sale of carrier assets out of bankruptcy, the Commission should (i) declare that the Communications Act does *not* except carriers from the rights afforded by section 365 of the Bankruptcy Code; (ii) declare that, where one CLEC wishes to take over another's service arrangement with nothing more than a name change, that constitutes "an assignment of transfer" within the meaning of Verizon's tariffs, so that the assignee/transferee CLEC must assume the outstanding indebtedness of the prior CLEC for such services; and (iii) direct CLECs to provide the information needed successfully to coordinate carrier-to-carrier transfers.

Each of these actions is essential to preserving the remaining vitality in the industry and ensuring continuity of service to end users. In granting Verizon's requested relief, the Commission would take a balanced approach designed to ensure that all carriers are protected

from customer losses before, during, and after bankruptcy proceedings. The Commission must take this opportunity to lead the industry toward certainty and recovery.

Respectfully submitted,

/s/ John H. Harwood II

Michael E. Glover
Edward Shakin
Ann H. Rakestraw
VERIZON
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3860

John H. Harwood II
Kathryn C. Brown
Daniel McCuaig
Jonathan H. Siegelbaum
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037
(202) 663-6000

August 22, 2002

CERTIFICATE OF SERVICE

I, Carole Walsh, do hereby certify that on this 22nd day of August, 2002, I have caused true and correct copies of the foregoing Reply Comments of Verizon, to be served by first-class, postage prepaid mail, upon the following parties:

Chairman Michael K. Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-201
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, D.C. 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5C-450
Washington, D.C. 20554

Russell I. Zuckerman
Richard E. Heatter
Marilyn H. Ash
MPower Communications Corp.
175 Sully's Trail - Suite 300
Pittsford, NY 14534

Richard A. Askoff
National Exchange Carrier Association, Inc.
80 South Jefferson Road
Whippany, NJ 07981

Lawrence G. Malone
Elizabeth H. Liebschutz
Brian Ossias
New York State Dept. of Public Service
Three Empire State Plaza
Albany, NY 12223

Frederic G. Williamson
Fred Williamson & Associates, Inc.
2921 East 91st Street, Suite 200
Tulsa, OK 74137
Counsel for the ILECs

L. Marie Guillory
Jill Canfield
National Telecommunications Cooperative Association
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

Michael J. Shortley, III
D. Anthony Mastando
Global Crossing North America, Inc.
1080 Pittsford-Victor Road
Pittsford, NY 14534

Paul C. Besozzi
Janet Fitzpatrick Moran
Patton Boggs LLP
2550 M Street, N.W.
Washington, D.C. 20037
Counsel for Evercom Systems, Inc.

Stephen L. Earnest
BellSouth Telecommunications
675 West Peachtree Street, N.E., Suite 4300
Atlanta, GA 30375

Alan Buzacott
Henry G. Hultquist
WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

Glenn S. Richards
Tony Lin
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037
Counsel for National ALEC Association/ Prepaid Communications Association

Mark C. Rosenblum
Lawrence J. Lafaro
Peter H. Jacoby
AT&T Corp.
295 North Maple Avenue - Room 1135L2
Basking Ridge, NJ 07920

Jonathan Askin
Teresa K. Gaugler
Association for Local Telecommunications Services
888 17th Street, N.W.
Washington, D.C. 20005

Regina M. Keeney
A. Renee Callahan
Lawler, Metzger & Milkman, LLC
2001 K Street, N.W., Suite 802
Washington, D.C. 20006
Counsel for Nextel Communications, Inc.

Michael B. Fingerhut
Richard Juhnke
401 9th Street, N.W., Suite 400
Washington, D.C. 20004

David L. Lawson
Michael J. Hunseder
Christopher T. Shenk
Sidley Austin Brown & Wood, LLP
1501 K Street, N.W.
Washington, D.C. 20005
Counsel for AT&T Corp.

R. Michael Senkowski
Robert J. Butler
John F. Papandrea
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
Counsel for the Mid-Size Carrier Group

Leonard J. Kennedy
Robert S. Foosaner
Lawrence R. Krevor
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
SBC Communications Inc.
1401 Eye Street, N.W., Suite 400
Washington, D.C. 20005

Lawrence E. Sarjeant
Indra Sehdev Chalk
Michael T. McMenamin
Robin E. Tuttle
United States Telecom Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Richard M. Rindler
Kathleen L. Greenan
Harry N. Malone
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Counsel for CTC Communications Corp., et al.

Albert H. Kramer
Robert F. Aldrich
Robert N. Felgar
Dickstein Shapiro Morin & Oshinsky, LLP
2101 L Street, N.W.
Washington, D.C. 20037
Counsel for American Public Communications Council

Thomas Jones
Christi Shewman
Willkie Farr & Gallagher
1155 21st Street, N.W.
Washington, D.C. 20036
Counsel for Time Warner Telecom

David Cosson
Donald Elardo
Kraskin, Lesse & Cosson
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Counsel for The Independent Alliance

Praveen Goyal
Jason Oxman
Covad Communications Company
600 14th Street, N.W.
Washington, D.C. 20005

Qualex International
Federal Communications Commission
445 12th Street, S.W., Room CY-B402
Washington, D.C. 20554

Jonathan D. Lee
Competitive Telecommunications Association
1900 M Street, N.W., Suite 800
Washington, D.C. 20036

/s/ Carole Walsh
Carole Walsh

Appendix A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Verizon Telephone Companies	)	Transmittal No. 226
Tariff FCC Nos. 1, 11, 14, and 16	)	
	)	

REPLY COMMENTS OF VERIZON TO PETITIONS TO REJECT OR SUSPEND AND INVESTIGATE

Of Counsel
Michael E. Glover
Edward Shakin

Ann H. Rakestraw

1515 North Courthouse Road
Suite 500
Arlington, VA 22201
(703) 351-3174

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FEDERAL COMMUNICATIONS COMMISSION
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Verizon Telephone Companies	)	Transmittal No. 226
Tariff FCC Nos. 1, 11, 14 and 16	)	
	)	

REPLY COMMENTS OF VERIZON[1] TO PETITIONS TO REJECT OR SUSPEND AND INVESTIGATE

Introduction

It seems that almost daily, news reports detail another telecommunications carrier that is having financial difficulties or whose financial problems have forced it to declare bankruptcy. Unlike non-dominant carriers and businesses in other industries, Verizon is limited in the types of measures it can undertake to protect against the growing problem of unpaid debt from these financially troubled customers. The tariff revisions in this filing are designed to offer protections that are similar to – and in most cases, even more favorable to customers than – provisions already existing in other carriers' tariffs. Indeed, Verizon *already* can require a two-month security deposit from any customer with "a proven history of late payments to the Telephone Company" or which does not have "established credit." The tariff revisions in large part either provide further clarity for all concerned by specifying concrete, objective circumstances that may trigger a

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[1] The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Exhibit A.

request for a deposit, or provide additional options to give flexibility in how the security can be paid.

In fact, many of the additional provisions – such as that allowing for advance payment in lieu of a security deposit, or a letter of credit instead of a cash deposit – provide more options in dealing with customers who may have financial difficulties. In the case of the advance payment alternative, for example, the tariff revisions would merely change the *timing* of payments by financially troubled carriers without increasing the amount they pay.

The revisions were carefully tailored to balance Verizon's need to ensure that it is not forced to provide services for which it will not be paid, while at the same time providing added flexibility when dealing with financially troubled customers. The tariffs are just, reasonable, and lawful, and they are absolutely necessary in the current economic climate. The Commission should allow these tariffs to become effective without delay.

I. The Current Trend of Growing Unpaid Carrier Debt Makes Verizon's Tariff Revisions Absolutely Essential

Verizon's uncollectibles have been growing dramatically in recent years. For example, the uncollectibles attributable to interstate revenues more than doubled between 2000 and 2001 alone. *See* Exhibit B. This includes an increase in uncollectibles of almost three times the previous year's rates in the East, the area where the most competition exists, and where the most CLECs operate. *Id.* (Showing interstate uncollectibles for Verizon East jumping from $38 million to $110 million between 2000

and 2001). And based on current trends, the figure can be expected to increase still further in 2002.

Some petitioners challenge the basis for Verizon's tariff changes, arguing that Verizon recorded uncollectible amounts for interstate revenues of "*only* $138.6 million" during 2001, which they argue is "still extremely low." WorldCom Comments, at 18 (emphasis added). In addition to the question of whether almost $140 million in interstate uncollectibles for a single year (or, as also reported in ARMIS, literally hundreds of millions more in total uncollectibles for interstate and intrastate services combined) can be ever considered "extremely low," the fact is that Verizon's uncollectibles have been growing at a dramatic pace, and there is no reason to believe that this trend is slowing. What petitioners seem to be suggesting is that the Commission should not allow carriers to solve a problem or prevent harm before it occurs, but must wait until the problem has reached catastrophic proportions before it allows any remedy. This is simply absurd. Saying that Verizon should not be able to protect itself from the imminent and growing harm of carrier uncollectibles just because it is a profitable, large company is like arguing that it is alright to steal from a large department store because it has "plenty." Verizon is not asking for special protections in this tariff, but merely the same ones that other suppliers, and many carriers, already have. Verizon should not be prevented from receiving these same protections simply because of its size or financial well-being.

In addition, petitioners are simply wrong to assume that the problem of unpaid carrier debt is not already a large one. *See* WorldCom Comments at 18. ARMIS data reports regarding uncollectibles, for example, do not show the whole picture. As an

initial matter, ARMIS aggregates revenues from end users and carriers, and thus tends to dilute the fact that the carrier portion, once a very small part of the uncollectible problem, is growing rapidly. When the end user and carrier segments are separated, the problem with carrier uncollectibles becomes more apparent. In 1996, for instance, only 2.4% of Verizon's total uncollectibles for interstate and intrastate revenues were attributable to uncollectible carrier revenues (as opposed to uncollectible end user revenues).[2] However, in 1999, carrier uncollectibles accounted for more than 12% of total uncollectibles. By 2000, that percent had grown to 15.1%. And in 2001, 27.8% of total uncollectible revenues were due to carrier uncollectibles.[3]

Similarly, information Verizon has been collecting regarding UNEs demonstrates that the carrier uncollectible problem for UNEs is much higher than the 1.2% uncollectible figure petitioners rely upon from ARMIS. During 2001, for states in Verizon East, more than 10% of the UNE and resale revenues Verizon received from CLECs and resellers were uncollectible. In other words, for every dollar Verizon billed to a CLEC or reseller in these states, more than 10 cents went uncollected.

Moreover, reports reflecting "uncollectibles" represent only a small portion of Verizon's unpaid debt. Before an outstanding debt will be recorded as uncollectible, Verizon must first find that it is "probable" that it will not be paid, and "[t]he amount of loss can be reasonably estimated." Statement of Financial Accounting Standards (SFAS) 5, ¶ 8. Thus, if it is only "possible" that the amount will not be repaid, or if Verizon

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[2] For purposes of this discussion, carrier uncollectible and receivable figures include access charges as well as uncollectibles and receivables from unbundled network elements ("UNEs") and resale.

[3] This data, and the data on UNEs and receivables discussed below, are based on analysis of Verizon's internal financial data and ARMIS reports.

cannot yet reasonably determine the portion of the outstanding charges that may become uncollectible, it is not recorded as uncollectible. In addition, outstanding wholesale receivables for 2001 were not counted as "uncollectible" unless Verizon had some objective reason – such as that the customer had declared bankruptcy or Verizon anticipated initiating an embargo or discontinuing service – to believe it "probable" that these amounts would not be repaid.

Thus, for the most part, the historic "uncollectible" figures reported in ARMIS for 2001 and earlier did not count additional outstanding receivables that were past due and might ultimately prove to be uncollectible. However, when outstanding receivables rather than uncollectibles are looked at, the results are even more dramatic. Based on Verizon's internal analysis, the amount of past due carrier receivables greater than 90 days has grown by 79% from December 2000 to June 2002.

II. Verizon's Revised Tariffs Are Just and Reasonable

Verizon's revised tariffs simply require that a customer that shows objective signs of lack of creditworthiness provide adequate assurance of payment in order to continue service. The principle of "adequate assurance" is one that is well accepted in both contract and bankruptcy law, and is implied in many contracts as a matter of law.[4] It is

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[4] *See, e.g.*, 11 U.S.C. § 366(b) (A "utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date."); Restatement (Second) of Contracts § 251 ("Where reasonable grounds arise to believe that the obligor will commit a breach by non-performance that would of itself give the obligee a claim for damages for total breach . . ., the obligee may demand adequate assurance of due performance and may, if reasonable, suspend any performance for which he has not already received the agreed exchange until he receives such assurance."); UCC § 2-609(1) ("When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if

based on the basic principle that a party should not be required to perform a contract if it has reasonable grounds to believe that the other party will not live up to its obligations. Indeed, the very types of assurances provided by Verizon's revised tariffs are the same ones that other carriers have long included in their tariffs or other terms of service – including the same carriers who complain most loudly here. A chart comparing Verizon's proposed tariff revisions to tariffs of AT&T, Sprint, WorldCom, and US LEC, is attached hereto at Exhibit C. The fact that these carriers have included similar provisions in their own previous or current tariffs is strong evidence that they are just, reasonable, and lawful. And although such provisions would be just and reasonable under any circumstances, they are made all the more so by the current turmoil in the telecommunications industry.

A. The Conditions for Requiring a Security Deposit or Advance Payment Are Reasonable, And Use Narrower and More Objective Criteria than Other Carriers Rely Upon

Verizon's current tariffs already allow it to require a two-month security deposit if a customer fails to pay its bills or if it does not have established credit. The revisions that Verizon has proposed to those tariffs do two main things: First, the revisions further delineate specific, objective criteria for invoking that protection, providing added certainty for all concerned. Second, as noted above, the revisions provide alternatives to a cash security deposit, such as letters of credit or advance payment, providing additional flexibility when dealing with financially troubled carriers.

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commercially reasonable suspend any performance for which he has not already received the agreed return.")

Specifically, the revised tariffs provide that a security deposit (or letter of credit) may be required on ten days written notice, or advance payments may be required on seven days written notice, if one or more of the following occur:

- a customer's account balance has fallen in arrears in any two months out of any consecutive twelve-month period;
- the customer owes $250,000 or more to Verizon that is 30 days or more past due;
- the customer or its parent "informs [Verizon] or publicly states that it is unable to pay its debts as such debts become due";
- the customer or its parent has initiated a voluntary receivership or bankruptcy proceeding, or if such a proceeding has been initiated against the customer or its parent;
- the senior debt securities of a customer or its parent are below investment grade; or
- the senior debt securities of a customer or its parent are rated at the lowest investment grade rating category by a nationally recognized statistical rating organization, and are put on review for a possible downgrade.[5]

The maximum amount of the deposit that can be required is the same as currently allowed in Verizon's tariff, and is the same or less than the amounts other carriers' tariffs allow them to require. *See* Exhibit C, at 2. For example, AT&T's tariff allows it to require a deposit of up to "*three* times the estimated average monthly usage charges

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[5] Verizon Tariff FCC No. 1, § 2.4.1(A)(2). Because the tariff revisions are similar in all of Verizon's proposed tariffs, for simplicity's sake, in this brief Verizon will cite only to Tariff FCC No. 1.

and/or the monthly recurring charges."[6] Sprint's tariff allows it to request up to *six* months of billable charges, *plus* any costs of installation.[7] Like Verizon, other carriers' tariffs specify that the deposit must be made in cash or by letter of credit or similar instrument, or the customer must make payment in advance for services. Exhibit C, at 2, 4. They also either do not specify the notice period within which such deposits or advance payments may be required, or set timeframes similar to those in Verizon's tariffs.[8]

In addition, the criteria Verizon has established for requiring a deposit is similar to – or even more limited than – the criteria set forth in other carriers' tariffs. *See* Exhibit C, at 1. For example, AT&T's tariff states that such a deposit may be required, *inter alia*, if the customer has "an unsatisfactory credit rating."[9] The tariff does not specify what will be deemed "unsatisfactory", but lists a number of criteria that *may* be considered, including "bankruptcy history," "financial statement analysis," and commercial credit bureau rating.[10] Other carriers' tariffs give them even more discretion in whether to require a deposit. For example, WorldCom's tariff states that it can require a security deposit of customers "whose credit worthiness is not acceptable to the Company or is not

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[6] AT&T Communications Tariff FCC No. 30, Long Distance Message Telecommunications Service (Interexchange Interstate), Business Telecommunications Service, § 3.5.5(A)(1) ("AT&T Tariff FCC No. 30")(emphasis added).

[7] Sprint Schedule No. 11, Business Communications Services (Interexchange Interstate), § 2.11.1 ("Sprint Schedule No. 11").

[8] *See, e.g.*, AT&T Tariff FCC No. 30, § 3.5.5(A) (company may require deposit on 10 days notice); *id.* § 3.5(H) (company may require advance payment "upon reasonable notice").

[9] AT&T Tariff FCC No. 30, § 3.5.5(A).

[10] *Id.* (emphasis added).

a matter of general knowledge."[11] The tariff does not specify what criteria the company will use to determine whether a customer's creditworthiness is "acceptable." And even more broadly, US LEC's tariff states merely that it may require a "suitable" deposit "[i]n order to safeguard its interests," without specifying the amount of the deposit or what, if any, criteria it will use to determine whether a deposit will be required.[12]

Moreover, even if the proposed new provisions were not similar to those already present in existing tariffs of other carriers, which is strong evidence of their reasonableness, they are just and reasonable on their own terms.

1. Customers Who Fail to Timely Pay Their Bills

Verizon's existing tariffs already provide that Verizon can require a security deposit from "a customer which has a proven history of late payments to the Telephone Company." Verizon Tariff FCC No. 1, ¶ 2.4.1(A). The revisions proposed by Verizon would provide further clarity by specifying the concrete, objective circumstances under which this existing right would be invoked, and by doing so provide greater certainty in this respect for all concerned. Specifically, the new provisions allow Verizon to require a deposit when a customer "has fallen in arrears in its account balance in any two (2) months out of any consecutive twelve (12) month period" or "owes $250,000 or more to the Telephone Company that is thirty (30) days or more past due." Verizon can *already* require a security deposit in those instances; the new language just makes more concrete what will qualify as a "proven history of late payments." Because these terms are

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11 WorldCom Texas PUC Tariff No. 1, § 2.7 ("WorldCom Tariff No. 1").

12 US LEC Tariff FCC No. 2, § 2.5(A)(1) ("US LEC No. 2").

clarifications of, rather than true additions to, existing tariff language that has already been approved by the Commission, they are necessarily just and reasonable.[13]

2. Customer or its Parent Is in Bankruptcy or Receivership, or Admits its Inability to Pay Debts as They Become Due

The revised tariffs allow Verizon to require a deposit or advance payment of charges if a customer or its parent (1) "informs [Verizon] or publicly states that it is unable to pay its debts as such debts become due"; or (2) "has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it)." Section 2.4.1(A)(2). Under these circumstances, there is no doubt that objective information exists that would cause doubt about the customer's ability to pay its bills. Indeed, some of Verizon's tariffs already in effect allow for the collection of a security deposit from a customer that "has filed for bankruptcy."[14] And, as stated above, other carrier's tariffs have similar provisions. *See, e.g.*, AT&T Tariff FCC No. 30, § 3.5.5(A).

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[13] *See Investigation of Access and Divestiture-Related Tariffs*, Memorandum Opinion and Order, CC Docket No. 83-1145 Phase I, 97 FCC 2d 1082 (1984) ("1984 Order"), Appendix D, at discussion of Section 2.4.1(A) (approving tariff language). Although the tariff revisions state that these conditions are "in addition to" the existing tariff deposit language, this is merely because there may be other situations that would qualify as "a proven history of late payments to the Telephone Company" other than these two specifically enumerated. Nonetheless, the revisions provide greater certainty by giving carriers notice of the known objective events that would trigger the right to request additional assurances of payment.

[14] *See, e.g.*, BOC Tariff (for Verizon, BellSouth, SBC, and Qwest) FCC No. 1, 800 Service Management System (SMS/800) Functions, § 2.4.1(B) ("SMS/800 Tariff"); Verizon West Coast Inc. General Exchange Tariff, Section 2, Establishment and Re-Establishment of Credit, A.1.b (Cal. P.U.C. Sheet 13, eff. May 1, 1997).

Rather than challenging the reasonableness of these provisions, some commenters have instead argued that they "run afoul of federal bankruptcy law."[15] These arguments are simply off the mark. As stated above, existing tariffs (of Verizon and other carriers) already have language setting "bankruptcy" as a trigger for requiring a deposit. Moreover, these provisions are fully consistent with the United States bankruptcy code, which allows a utility to "alter, refuse, or discontinue service" within twenty days after the bankruptcy order of relief if the debtor or its trustee does not furnish "adequate assurance of payment, in the form of a deposit or other security, for service after such date."[16] Although it is true that the bankruptcy court is the final arbiter of what constitutes "adequate assurance of payment," courts have specifically held that "[t]he amount constituting adequate assurance of payment *may be initially set by the utility*."[17] If the debtor objects to the amount of "adequate assurance" required by the utility, then the court may modify the amount. *See* 11 U.S.C. § 366 (b); *In re Tarrant*, 190 B.R. at 708. However, "the utilities have a right to the deposit as demanded unless the debtor can show cause to reduce it." *In re Best Products*, 203 B.R. at 54 (citation omitted). Courts in bankruptcy cases more than once have held that a security deposit equal to two months or more of charges is an appropriate amount to require from the debtor in order to

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[15] *See* Comments of Association of Communications Enterprises, et al., at 10 ("ASCENT Comments"). *See also* WorldCom Comments, at 8-9.

[16] *See* 11 U.S.C. § 366(b). Although "other security" is not defined, "courts appear to have implicitly construed the term 'other security' to mean prepayment of bills, shortened payment deadlines, a letter of credit, a surety bond, or some similar financial device." *In re Best Products Co.*, 203 B.R. 51, 53-54 (E.D.Va. 1996) (citing cases).

[17] *In re Tarrant*, 190 B.R. 704, 708 (S.D.Ga. 1995) (emphasis added); *see also In re Best Products*, 203 B.R. 51, 54 (E.D.Va. 1996).

continue service.[18] They have also held that payment in advance or letter of credit may be required as adequate assurance.[19] And, again, these terms are consistent with provisions in other carriers' tariffs. *See* section II.A., *supra*.

3. Investment Grade Rating

The other criteria state that Verizon may require a deposit or payment in advance if the senior debt securities of a customer or its parent are below investment grade, or are rated at the lowest investment grade rating category by a nationally recognized statistical rating organization and are put on review for a possible downgrade. Verizon Tariff FCC No. 1, § 2.4.1(A)(2). Contrary to some petitioners' arguments, these criteria are not "ambiguous" or "vague" – they are specifically defined by reference to objective definitions found in federal securities regulations. *See id.*, § 2.4.1(A)(2).[20] And the entire reason for including them is to establish concrete, objective criteria for invoking the right to request additional assurances of payment – criteria that are far less vague than the language many of the complaining carriers have long included in their own tariffs.[21]

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[18] *See, e.g. In re Smith, Richardson & Conroy, Inc.*, 50 B.R. 5, 6 (S.D. Fla. 1985) (finding that offer to prepay for services was not adequate assurance, and utility's demand for security deposit approximating the cost of service for *three* months was reasonable); *Lloyd v. Champaign Telephone Co.*, 52 B.R. 653, 656 (S.D. Ohio 1985) (telephone company's request for a security deposit of *2.3 times* the debtor's average monthly billing was reasonable, as it was the same deposit the company required from other customers with flawed credit histories).

[19] *In re Best Products Co.*, 203 B.R. 51, 53-54 (E.D.Va. 1996) (citing cases).

[20] For example, while one petitioner argues that the term "nationally recognized statistical rating organization" is vague, it is a term that is used repeatedly in SEC regulations that reference "investment grade" ratings. *See, e.g.*, 17 CFR § 240.3a1-1(b)(3)(v).

[21] *See, e.g.*, WorldCom Tariff No. 1, § 2.7 (stating that it can require a deposit of a customer "whose credit worthiness is not acceptable to the Company or is not a matter of general knowledge"). *See generally* Exhibit C, at 1.

Petitioners also argue that Verizon has not shown any link between whether a customer's security rating is below "investment grade" (also known as "junk" grade) and the customer's payment of its bills. *See, e.g.*, ALTS Comments, at 11-12. However, it is well established that "[c]redit ratings provide objective, consistent and simple measures of creditworthiness" and are regarded as "a key measure of a company's financial health."[22] Moreover, private contracts often use downgrades in investment ratings as triggers for requiring adequate assurance.[23] Indeed, Moody's reports that "over 90% of all rated companies that have defaulted since 1983 were rated Ba3 [one of the highest "junk" grade ratings] or lower at the beginning of the year in which they defaulted."[24] As a corollary, one petitioner notes that public data shows that *one in ten* issuers of securities that currently are below investment grade will default on the securities. *See* WorldCom Comments, at 10-11.

And it appears that currently for the telecommunications industry, the default rate is much higher than average. According to one analyst, "Through the first half of 2002,

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[22] Moody's Investor Service, Rating Policy, "Understanding Moody's Corporate Bond Ratings and Rating Process," at 5 (May 2002) *available at* www.moodys.com/moodys/cust/ratingdefinitions/rdef.asp; BusinessWeek Online, "The Credit-Raters: How They Work and How They Might Work Better," (April 8, 2002), *available at* www.businessweek.com/magazine/content/02_14/b3777054.htm.

[23] *See* Moody's Investor Service, Rating Policy, "Understanding Moody's Corporate Bond Ratings and Rating Process," at 6 (May 2002) ("Investors and counterparties embed ratings as triggers into private contracts in order to protect themselves from potential deterioration in the creditworthiness of an obligor's financial position"). *See also* Jonathan Stempel, Issuer in the News, "Moody's, S&P Say Demanding More Disclosure on Risks," Feb. 6, 2002, *available at* www.markets.reuters.com/cabonds/Editorial/IssuerInTheNews/IssuerInTheNews898.htm (noting that companies' contracts often have clauses requiring that they pay off their debt or pay a higher interest rates in the event of an investment downgrade).

[24] Moody's Investor Service, Rating Policy, "Understanding Moody's Corporate Bond Ratings and Rating Process," at 9 (May 2002).

55% of defaults by volume and 37% as a percentage of issuers have been telecommunications firms."[25] In addition, because defaulting on securities obligations will often trigger default clauses and shut off future financing, these companies are likely to default on securities obligations last – *i.e.*, long *after* they have stopped paying their bills for telephone service. Verizon's own internal analysis confirms this. Verizon looked at selected carrier customers with outstanding balances above a threshold (more than $1.75 million dollars) as of a date certain in July.[26] There were 24 companies that fell within that category, and 17 of those were publicly rated. As Exhibit D demonstrates, there is a correlation for this set of carriers between S&P credit ratings and the percent of billable revenues that a customer has outstanding for 90 days or more. In other words, the lower the customer's credit rating, the more likely it is the customer will have a higher percentage of its outstanding receivables due for 90 days or more.

Some petitioners also argue that the investment rating criteria is "overbroad" because it would arguably apply to all competitive carriers. *See, e.g.*, ALTS Comments, at 11-12. This is simply not true. Verizon's tariffs apply to many types of customers (including IXCs, CLECs, wireless carriers, and retail special access customers), and many, such as AT&T, Sprint, Comcast, and Cox Enterprises, have investment grade credit ratings and are not on review for possible downgrade below investment grade. Regardless, even if within the entire body of customers a large number of CLECs – a

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[25] *See* Moody's Investor Service, Special Comment, "Corporate Defaults Refuse to yield in 2002", at 4 (July 2002) *available at* riskcalc.moodysrms.com/us/research/defrate/Q202_comment.pdf.

[26] Data from customers in the East(North) and West were used for this analysis. Because of differences in accounting for the number of days receivables are outstanding, data from Verizon East(South) were not used.

subset of Verizon's customer base – are below investment grade, that does not mean that it is unreasonable to require security deposits or advance payments from these financially troubled customers. Indeed, it proves just the opposite: the "utter crisis"[27] facing the telecommunications industry is likely to affect Verizon directly, as more and more carriers declare bankruptcy and saddle Verizon with unpaid bills. If all ILECs were to adopt the same provisions that Verizon is proposing, the *most* that carriers would have to contribute would be a two month security deposit, or, in the alternative, a letter of credit or payment in advance for services.[28] And under the advance payment alternative, they would merely shift the timing of what they pay but would not pay any larger amount out of pocket. By contrast, without these tariff protections, the losses Verizon will face are much greater – a multiple of the number of CLECs (or other customers) with financial difficulties, times the amounts that they accrue in unpaid debt. And even then, contrary to petitioners' claims, Verizon does not have an incentive to require large deposits from as many carriers as possible, because it would have to pay high rates of interest on these deposits. *See* Verizon Tariff FCC No. 1, § 2.4.1(A)(5).

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[27] Yochi J. Dreazen, *FCC's Powell Says Telecom 'Crisis' May Allow a Bell to Buy WorldCom*, Wall St. J., July 15, 2002, at A1.

[28] This is true whether a carrier's billables are all with one provider or with several. For example, if the carrier had $10,000 per month worth of service all with one provider, a deposit of up to two times that monthly service would be $20,000. If it instead had $10,000 per month worth of billables spread across 10 providers at $1,000 per month each, it would potentially owe security deposits of up to $2,000 to each provider, again for a total of $20,000.

B. The Terms Regarding the Security Deposit or Payment In Advance Are Just and Reasonable

1. The Amount of the Security Deposit Is the Same As Allowed in Current Tariff Provisions, and Is Just And Reasonable

As an initial matter, no one can dispute that it is just, reasonable, and lawful under certain circumstances for a telephone company to require a security deposit of up to two months' worth of estimated or actual rates and charges (or to require letters of credit or advance payment in lieu of a cash deposit). As far back as 1984, the Commission approved tariff language permitting such security deposits to be collected if the customer had "a proven history of late payments to the Telephone Company or does not have established credit."[29] The only issue, then, is not whether Verizon can *ever* require a security deposit (or lesser alternatives, such as a letter of credit or advance payments), or whether the *amount* of the security deposit is just and reasonable. Rather, the only question is whether the proposed revisions to clarify the objective criteria for requiring such a deposit are just, reasonable, and lawful. As stated in section II.C., *infra*, they are.

2. The Provisions Allowing Customers To Provide Advance Payments or a Letter of Credit In Lieu of a Cash Deposit Are Just and Reasonable

The tariff modifications regarding the nature of the security that will be requested reflect an effort to provide greater flexibility and additional options to carriers than the existing provisions of Verizon's tariffs. For example, the tariff states that if a deposit is required, the customer may provide a letter of credit instead of cash. While some

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[29] *See Investigation of Access and Divestiture-Related Tariffs*, Memorandum Opinion and Order, CC Docket No. 83-1145 Phase I, 97 FCC 2d 1082 (1984) ("1984 Order"), Appendix D, at discussion of Section 2.4.1(A).

petitioners argue that a letter of credit can be expensive, *see* AT&T Comments at12, ASCENT Comments at 14, if cash supply is a concern to the customer, the letter of credit is an alternative that is intended to avoid an additional cash outlay. And if the customer prefers to give a cash deposit instead of a letter of credit, it can do so. The "letter of credit" language simply provides an additional (lesser) method for providing assurance of payment.

In addition, Verizon's tariffs provide that, if a customer fits the criteria for requiring a deposit, Verizon may instead require the carrier to pay in advance for services, on a monthly basis, "in lieu of" requiring a deposit. Verizon Tariff FCC No. 1, § 2.4.1(A)(2) & (3). As noted above, this provision does not increase the carrier's financial obligations at all, but simply makes a slight shift in the timing of payments. Under the advance payment plan, a customer would pay one month in advance for services, on a recurring basis, rather than paying two months' worth of charges as a deposit. Again, this allows customers who claim that they have cash flow problems an option to conserve their cash.[30] Because the amount is determined based on past billing cycles, and is subject to "true up" procedures not less than twice a year, the advance payment amounts should be very close to the amounts the carrier would otherwise be paying under the existing tariff. Other carriers' tariffs similarly allow for advance payment of services, "upon written notice," sometimes "in addition to" (rather than

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[30] Contrary to the arguments of one petitioner, the tariff states that advance payments may be made "in lieu of," not in addition to, a security deposit. *Compare* Verizon Tariff FCC No. 1, ¶2.4.1(A)(2) *with* Comments of ALTS, et al., at 15-16.

instead of) a security deposit, and often on criteria less specific than that used in Verizon's tariff. [31]

One commenter argues that the advance payment option should require Verizon to pay interest if a subsequent "true up" shows the amounts to have been over-withheld, but says nothing about having the *customer* pay interest if the "true up" reveals that the advance payments were less than necessary. *See* ASCENT Comments, at 17. The current terms regarding interest are reciprocal – neither Verizon nor the customer pays interest on true up balances. The suggestion that Verizon pay interest, but the customer not do so under the same circumstances, is lopsided and punitive to Verizon. Moreover, because the amount of advance payment will be based on the average of three prior months of service, the true up amounts should be very small. And the simple fact is that the advance payment option is simply available as an alternative to a security deposit or letter of credit.

3. The Tariffs Already Provide a Mechanism for Resolving Any Legitimate Disputes

Some petitioners claim that the new tariff provisions should be rejected because they do not specifically exclude "disputed amounts" from the calculation of amounts due. *See* ASCENT Comments, at 3. This argument is a non sequitur. Verizon's tariffs already contain specific provisions that set out in detail the processes for the resolution of disputed charges. *See, e.g.*, Verizon Tariff FCC No. 1, §§ 2.4.1(B)(3)(c). Nothing in the

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[31] *See, e.g.*, AT&T Tariff FCC No. 30, § 3.5(H) (requiring advance payment "upon reasonable notice"); WorldCom Texas Tariff No. 3, § 2.5.1 ("WorldCom Tariff No. 3") ("To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished." An advance payment "may be required *in addition to*" a security deposit). *See generally* Exhibit C, at 5.

revised tariff languages alters the handling of these disputes. If the deposit amount is based on a material level of disputed charges that are later resolved in favor of the customer, Verizon could reduce the security deposit or advance payments by the appropriate amount, or apply the surplus to the customer's outstanding bill. Verizon will pay interest on disputed amounts that are resolved in favor of the customer, and on deposits that are returned, in accordance with the tariff provisions. *See* Verizon Tariff FCC No. 1, §§ 2.4.1(A)(5), 2.4.1(B)(3)(c). Therefore, despite petitioners' Machiavellian claims, Verizon does not have any incentives to inflate these charges, and indeed has incentives to keep them small. However, changing the tariff to allow deposits or advance payments to be calculated solely on the non-disputed portion of bills would allow customers to "game" the system by "disputing" all of the charges from the prior months, and thus allegedly owing no money. Having a clear standard will avoid disputes about the amounts owed, and will not let customers exploit the "dispute" process so as to delay or avoid their obligations to provide a deposit or advance payment.[32]

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[32] Verizon will not address some petitioners' specific allegations of billing problems, as they are being (or have been) addressed in other proceedings, and petitioners' comments regarding these issues are little more than a mud-slinging campaign having nothing to do with the issues at hand. *See generally* ASCENT Comments, at 3-9. However, it is ironic that the most vociferous complaints in this regard come from CoreComm/ATX, a carrier that recently conceded that it failed to pay Verizon for six months of service in one state, and that owes Verizon millions of dollars for services in several different states. *See CoreComm Massachusetts, Inc. v. Verizon New England, Inc.*, Memorandum of Decision and Order on Plaintiff's Application for Permanent Injunction, ¶ 2 (March 13, 2002) (refusing carrier's claim for an injunction to remove embargo on providing further services, and noting that CoreComm had at that point failed to pay Verizon $17 million in seven other jurisdictions) (attached hereto as Exhibit E).

C. The Notice Provisions Are Just and Reasonable, and Are Not Unlawful

1. The Notice Provisions Are Just and Reasonable, and Similar to Provisions in Other Tariffs

Verizon's existing tariffs allow it to refuse additional service, or to discontinue service, on thirty days written notice if a customer fails to pay or does not comply with the provisions regarding a deposit or advance payment. The revised tariffs shorten the notice period from thirty to seven days to reflect the fact that circumstances can change very quickly (as recent events show), and that the termination notice would follow an already lengthy process. Again, this modification is in line with terms already present in other carriers' existing tariffs. For example, AT&T's tariff states that if the customer refuses to make advance payments, AT&T may "*immediately* and upon written notice to the Customer . . . restrict, suspend, or discontinue providing the service." AT&T Tariff FCC No. 30, § 3.5(H). Sprint and WorldCom have similar notice provisions in their tariffs.[33]

As Verizon stated in its initial description and justification, the notice period before halting new or pending orders, or discontinuing service, often is in addition to other mandatory wait periods (such as after bills are already overdue, or for payment for services that are billed in arrears), and is usually triggered by Verizon only after it and the customer have been involved in protracted negotiations. Requiring an *additional* thirty days notice after the carrier has defaulted and the negotiations have stalled is not necessary to protect the carrier's customers. Given the already long lag time that often

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[33] *See* Sprint Schedule No. 11, § 2.15 (stating that it may, by written notice, "immediately" cancel service); WorldCom Tariff No. 1, § 2.7 (stating that it may cancel service "upon written notice").

occurs between providing services and receiving payment for the services, and given that the carrier who is given notice of termination likely will not pay voluntarily for debts incurred for future services, shortening this time to seven days is reasonable.

Indeed, the Commission has already stated its approval of limiting the period from 30 to 15 days. In 1987, the Commission allowed BellSouth to revise its tariff to provide for discontinuance of service 15 days after nonpayment, if it made certain other modifications to the tariff. *See Annual 1987 Access Tariff Filings*, Memorandum Opinion and Order, 2 FCC Rcd 280, 290 (1986). Although that notice provision never became effective (apparently because BellSouth did not follow through with other necessary changes to the tariff), the Order shows that the Commission has in the past approved notice periods far shorter than the 30 day notice period that petitioners have argued is "essential." *See* WorldCom Comments, at 3.[34]

WorldCom also exaggerates the effect of the seven-day provision by arguing that Verizon could invoke it "with respect to any dispute, with any customer, where Verizon can allege a tariff violation, regardless of the customer's financial condition." WorldCom Comments, at 5. As the tariff spells out very clearly, only certain tariff violations – such as failure to pay for services, or to pay security deposit when requested – will trigger the right to discontinue service. Verizon Tariff FCC No. 1, § 2.1.8. While some of the

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[34] WorldCom is incorrect in arguing that, when LECs initially proposed 10- and 20-day notice periods in 1984, "the Commission's concern about those extremely short notice periods led the LECs to revise their tariffs to provide for a 30-day notice period." *See* WorldCom Comments, at 2 & n.3. While the LECs did voluntarily extend the notice period, the order WorldCom cites in support of this argument shows that *the Commission said nothing about the length of the proposed 10- and 20-day notice periods.* 1984 Order, App. D, at discussion of Section 2.4.1(A).

conditions that warrant the request for a deposit (or, alternatively, advance payment) have changed, the conditions for discontinuing service remain unchanged.

2. The Seven-Day Notice Period Does Not Conflict With Existing Law

One petitioner argues that the seven-day notice provision is "facially unlawful" because Commission rules do not allow non-dominant carriers to discontinue service on less than 30 days notice, or dominant carriers to discontinue service on less than 60 days notice. ALTS Comments, at 13 (citing 47 C.F.R. § 63.71). This argument is misplaced. Not only does it misread the Commission's regulations, it ignores the fact that many existing tariffs already have periods *shorter* than the 30-and 60-day terms set forth in the regulations.

As noted above, many carriers who have opposed Verizon's tariffs themselves have tariffs that state that they can terminate a customer's service "immediately" upon written notice. *See* section II.C.1., *supra; see also* Exhibit C, at 5. Indeed, if petitioner's argument was correct, the provisions in Verizon's *existing* tariff – which allow for discontinuance after thirty days notice, and are in line with the Commission's 1984 order approving those rates for all BOCs – would be unlawful, because they are less than the 60 days set forth in the regulations.

Of course, the answer is that the regulations do *not* prohibit terminating service with less than 30 days (for nondominant carriers) or 60 days (for dominant carriers) notice. Indeed, the rule says nothing at all about the length of notice that must be given. Rather, the rule petitioner refers to simply states that the carrier shall "notify" the customer of the planned discontinuance and submit to the Commission an application for

discontinuance for service. After certain periods of time (30 or 60 days) have passed, the application to discontinue service "shall be *automatically* granted . . . unless the Commission has notified the applicant that the grant will not be automatically effective." 47 C.F.R. § 63.71(c) (emphasis added). Nothing in the Act, or in the Commission's regulations, prohibits the Commission from granting applications to discontinue service in a shorter time frame than 30 or 60 days.

In any event, the rules cannot be used as a sword to force carriers to continue providing service to customers who can't or won't pay. Rather, the onus has to be on the carrier who is no longer is financially able to provide service to ensure that its customers receive notice of its potential discontinuance of service *prior* to the time it is no longer able to pay its bills or otherwise provide assurances of payment.

III. Verizon's Position as a "Dominant" Carrier Makes The Tariff Revisions *More*, Not Less, Reasonable

AT&T's Comments obliquely reference the fact that it has "from time-to-time insisted on provisions in its contracts with customers that require security deposits and other provisions that protect against default." AT&T Comments, at 7 n.2. However, it argues that Verizon should not be allowed to institute these same protections because Verizon is a "dominant" carrier. *Id.* Other petitioners similarly argue that Verizon should not be entitled to the same protections many of them can use because of its position as a dominant carrier. However, the fact that Verizon is deemed "dominant" and thus is regulated more than any of petitioners gives more justification for these provisions, not less. Unlike non-dominant carriers or suppliers in other industries, Verizon is very limited in the types of measures it can undertake to protect against unpaid debts. Non-dominant carriers, by contrast, do not have to provide tariffs for their

services, and therefore are free to apply any standards they choose. For example, unlike other providers, Verizon cannot simply deny service to customers "whose credit worthiness is not acceptable to the Company or is not a matter of general knowledge." WorldCom Texas Tariff No. 1, § 2.7. Likewise, Verizon cannot cancel the provision of service to the customer if it,"in its sole discretion, determines that the Customer is not capable of satisfying its payment obligations." *Id.* Because Verizon is limited in the types of protections it can undertake, it – more than any IXC or CLEC – needs the measures set forth in the revised tariffs.

Some petitioners argue that because many carriers are bad credit risks, Verizon should not be able to require these standard protections, because it would end up requiring security deposits or advance payments from many of its customers. Even if such claims were true, again, this would be all the more reason to allow Verizon's new tariff provisions to take effect. Commenters' lament what would happen if they were forced to offer these protections to all ILECs. However, they fail to acknowledge that Verizon is taking the risk not just for each carrier with bad credit, but for dozens of potentially defaulting customers. Each carrier has to deal with its own financial risk; Verizon has to deal with the potential financial problems of all its customers – CLECs, IXCs, wireless carriers and retail special access customers. The only "unreasonable" solution would be to force Verizon to take on 100% of the risk, without allowing it to have some protections against nonpayment.

IV. There Is No Commission Prescription Against Altering Tariff Provisions Regarding Security Deposits

More than one petitioner argued that Verizon could not alter the conditions requiring a security deposit because a 1984 decision by the Commission issued a "prescription" against change. *See, e.g.*, WorldCom Comments, at 5-7. They are wrong. The language of the Commission order that these commenters rely upon only changed *one* condition for setting a security deposit; it did not purport to set a "prescription" for all possible situations that would trigger the need for a deposit. *See* 1984 Order, App. D, at discussion of Section 2.4.1(A). Indeed, not only is there no "prescription" against change, but after that order was issued, the Commission has allowed tariffs with additional deposit conditions to become effective.

In the 1984 Order, the Commission addressed the terms of the original access and divestiture related tariffs for various companies. In the lengthy order and attached appendices, the Commission addressed a number of commenters' concerns with proposed tariff language. One provision that came up was section 2.4.1, regarding security deposits. Commenters' complaints then were much like the ones being presented in opposition to Verizon's current tariff. For example, the Commission noted then that "Commenters contend that the size of the deposit required is unreasonable and that this provision [regarding security deposits] may be used in an anticompetitive manner against new ICs." 1984 Order, App. D at Issues of Section 2.4.1(A).[35] Nevertheless, the

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[35] The amount of the deposits was "not to exceed the actual or estimated rates and charges for the service for a two month period plus the amount of any termination charges attributable to the service." *Id.* The Commission apparently rejected the commenters complaint that "the size of the deposit is unreasonable," because it allowed the two-month security deposit – the same size as that set forth in Verizon's

Commission permitted the tariffs to require deposits under certain circumstances, recognizing that, "it is prudent for the telephone company to seek to avoid nonrecoverable costs imposed by bad credit risks." *Id.* at discussion of Section 2.4.1(A).

In accepting the provisions regarding security deposits, the Commission directed certain changes be made to the deposit language to address specific Commission concerns. One of those concerns was "the potential anticompetitive effects of requiring a deposit from ICs which do not have 'established credit with the Telephone Company.'" *Id.* At the time, of course, the Commission was dealing with tariff filings by new companies created by the breakup of AT&T and that previously had been part of the unified Bell systems. Under those circumstances, the Commission reasoned that, "[w]hile we recognize the need to assure reasonable customer credit ratings, we believe that it is unreasonable to require that an IC establish credit with *each* telephone company." *Id.* (emphasis added). Thus, it directed that the tariff phrase requiring a deposit when a customer did not have "established credit with the Telephone Company" be changed to specify that such a deposit would be required only when the customer did not have "established credit" generally:

> We believe that adequate bases for extending credit in most instances will arise from the ICs' dealings with other telephone companies or entities. Thus, we conclude that Section 2.4.1(A) must be amended to allow the telco to require deposits only from an 'IC which has a proven history of late payments to the Telephone Company or does not have established credit except for an IC which is successor of a company which has established credit and has no history of late payments to the Telephone Company . . .'

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current tariff revisions – to take effect. However, it was concerned that the phrase "termination charges" was "unclear" and "vague" and "could become extremely burdensome" and thus directed that the reference to "termination charges" either be defined and supported or eliminated from the tariff." *Id.*

1984 Order, App. D, at discussion of Section 2.4.1(A).

While petitioners are fond of quoting the language of the order which states the tariffs "must" be changed to allow a deposit "only" from a company with a history of late payments to the Telephone Company or no established credit, reading these words in context, it is apparent that the Commission did not purport to set forth guidelines for any possible condition that would require a security deposit. Rather, it was only amending one troublesome clause. Had the Commission intended to set a broad "prescription" on all possible circumstances that would allow for the request of a security deposit, it certainly would have done so in a clear manner; it would not have buried the "prescription" in the discussion of one specific problem with a portion of the deposit language.[36]

Moreover, the fact is that since the 1984 Order, the Commission has permitted tariffs with additional triggers for a security deposit to become effective. For example, as stated above, one of Verizon's existing tariffs already allows for a security deposit when a customer has "filed for bankruptcy." *See, e.g.*, SMS/800 Tariff, § 2.4.1(B). This fact alone plainly undermines petitioners' "prescription" argument.

V. The New Tariff Provisions Do Not Materially Alter Term Plans and, Even if They Did, Would Meet the "Substantial Cause" Test

Some commenters have argued that, in order to have the new provisions apply to term plans, Verizon must demonstrate that there is "substantial cause" for the changes.

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36 Indeed, at the outset of the order, the Commission made it clear that its goal was "to resolve at least the major issues necessary to assure that generally reasonable, workable access tariffs are in place from the outset." 1984 Order, at ¶ 8. However, it recognized that "[a]ctual operational experience and the rapid changes in technology and market forces may also reveal new issues over time." *Id.*

See WorldCom Comments at 14-18; ALTS Comments at 14-15. These arguments are incorrect, because a "substantial cause" showing must only be made if the tariff revisions make *material* changes to the term plans, and the revisions proposed here do not modify the term plans at all, let alone make material changes. And even if the substantial cause test did apply, it has easily been met.

A. The Tariff Provisions Do Not Materially Alter the Term Plans, But Only Provide Adequate Assurance of Performance

Verizon's term agreements simply contain pricing options for services contained in the general tariff sections. These plans enable a customer to obtain a lower price than the generally tariffed rate, in exchange for a commitment for an amount of service and a length of time the services will be in place. As simple pricing plans, the term plans detail the prices and length of the agreement between the customer and Verizon, but do not govern the payments or security deposits related to the plans. The general terms and conditions that apply to the term plans are those contained in the applicable general access tariff. Thus, changes to the general terms in Verizon's access tariffs apply automatically to the term plans as well.

However, the tariff revisions in this filing do not alter the operative conditions of the term plans – the rates, volumes or length of the term plans. Consequently, they do not alter the term plans themselves at all.[37] Moreover, even if the revisions were considered

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[37] The term plans that reference the changes that will warrant early termination of the terms reference material changes to *rates*. *See, e.g.*, Verizon Tariff FCC No. 1, § 7.4.13(C) ("In the event that the Telephone Company initiates a rate increase and the total discounted monthly rate for the affected service increases by eight percent (8%) or more, the customer may cancel its TPP for the affected service without termination liability.").

(incorrectly) to modify some aspect of the term plans, the revisions still would not be of the type the Commission has considered to be "material."[38] Instead, most of the changes simply enumerate in detail the situations in which Verizon can require "adequate assurance" and the form that assurance will take. In large part, these provisions either echo steps that Verizon can already take pursuant to the tariff (or if the customer files for bankruptcy), simply clarify when they will be invoked, or offer opportunities for assurance that are *more* favorable to the customer than existing provisions. *See* section II.A., *supra*. Indeed, the concept of allowing a party to require "adequate assurance" is one that is often implied as a matter of law in commercial contracts, even if the contract is silent as to those terms.[39] And for most customers – *i.e.*, those that make timely payments and are creditworthy – these changes will have no effect at all. Under these circumstances, the tariff revisions cannot be of the type that result in "surprise or hardship"[40] and thus are not material.

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[38] *See, e.g., AT&T Communications Contract Tariff No. 374*, 10 FCC Rcd 7950, 7952 (1995) (proposing to modify contract price and volume discount); *RCA American Communications, Inc. v. Revisions to Tariff FCC Nos. 1 and 2*, 86 FCC 2d 1197 (1981) (considering proposals to "substantially" increase tariff rates or shorten the service of tariff terms).

[39] *See, e.g.*, Restatement (Second) of Contracts § 251; UCC § 2-609(1).

[40] UCC § 2-207, Official Comment 4 states that a modification to a contract is "material" if it would result in "surprise or hardship." Although the Commission does not have to follow this test, it has held that basic contract and commercial transactions law is "highly relevant" in examining whether contract terms are just and reasonable. *See Tariff Filing Requirements for Nondominant Common Carriers*, 10 FCC Rcd 13653, ¶ 14 (1995).

B. Even if the Changes Are Deemed Material, There Is "Substantial Cause" for the New Tariff Provisions

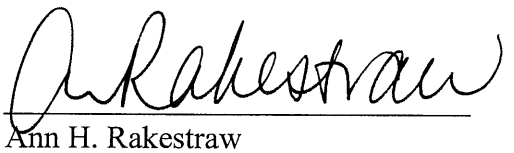
As an initial matter, it must be noted that the "substantial cause" test is not "an additional hurdle that [Verizon's] otherwise reasonable new tariff has to overcome." *Showtime Networks, Inc. v. FCC*, 932 F.2d 1, 6 (D.C. Cir. 1991) (citation and internal quotation marks omitted). Rather, it has a "limited role" as an "aid" in determining whether the changes meet the reasonableness test set out in 47 U.S.C. § 201. *See id.* Under this test, to determine whether the tariff revisions are reasonable, the Commission weighs both the "carrier's explanation of the factors necessitating the desired changes at that particular time," and the "position of the relying customer." *Hi-Tech Furnace Systems, Inc. v. FCC*, 224 F.3d 781, 791 (D.C. Cir. 2000) (*quoting RCA American Communications, Inc.*, 86 FCC 2d 1197, 1201 (1981)).

As set forth above, the current economic climate – which has shown an explosive growth in carrier uncollectibles – makes these changes absolutely essential. The changes are specifically designed to provide certainty and, in many cases, allow the customer more flexibility than current provisions. Under these circumstances, Verizon has shown substantial cause for the tariff revisions.

Conclusion

The Commission should permit Verizon's tariffs to become effective without delay.

Respectfully submitted,



Ann H. Rakestraw

Michael E. Glover
Edward Shakin
Of Counsel

1515 North Courthouse Road
Suite 500
Arlington, VA 22201
(703) 351-3174

Attorney for the
Verizon telephone companies

August 7, 2002

Exhibit A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

Exhibit B

Trend of Uncollectible Revenues

($ Amounts in Millions)

VZ East								
	Total (State plus Interstate)	*1996*	*1997*	*1998*	*1999*	*2000*	*2001*	
1	Total Revenues	$ 25,546	$ 25,260	$ 25,877	$ 26,570	$ 27,309	$ 27,137	
2	Total Uncollectible	$ 321	$ 324	$ 313	$ 321	$ 522	$ 825	
3	Percentage of Uncoll. To Total Revenues	1.3%	1.3%	1.2%	1.2%	1.9%	3.0%	
4	Growth of Uncoll.		1.2%	-3.5%	2.6%	62.7%	58.0%	
VZ East								
	Interstate	*1996*	*1997*	*1998*	*1999*	*2000*	*2001*	
1	Interstate Revenues	$ 6,488	$ 6,591	$ 6,944	$ 7,289	$ 7,812	$ 8,253	
2	Interstate Uncollectible	$ 32	$ 26	$ 24	$ 25	$ 38	$ 110	
3	Percentage of IS.Uncoll. To IS. Rev.	0.5%	0.4%	0.3%	0.3%	0.5%	1.3%	
4	Growth of Uncoll.		-19.0%	-9.0%	5.8%	49.5%	192.0%	
VZ Total								
	Total (State plus Interstate)	*1996*	*1997*	*1998*	*1999*	*2000*	*2001*	
1	Total Revenues	$ 38,047	$ 38,385	$ 39,587	$ 40,503	$ 40,863	$ 40,392	
2	Total Uncollectible	$ 557	$ 558	$ 563	$ 574	$ 740	$ 1,034	
3	Percentage of Uncoll. To Total Revenues	1.5%	1.5%	1.4%	1.4%	1.8%	2.6%	
4	Growth of Uncoll.		0.3%	0.7%	2.0%	28.9%	39.8%	
VZ Total								
	Interstate	*1996*	*1997*	*1998*	*1999*	*2000*	*2001*	
1	Interstate Revenues	$ 9,329	$ 9,595	$ 10,201	$ 10,680	$ 11,383	$ 11,953	
2	Interstate Uncollectible	$ 47	$ 42	$ 42	$ 60	$ 65	$ 139	
3	Percentage of IS.Uncoll. To IS. Rev.	0.5%	0.4%	0.4%	0.6%	0.6%	1.2%	
4	Growth of Uncoll.		-11.6%	-0.1%	45.3%	8.4%	112.1%	
Source:								
	ARMIS 43-01 Reports.							

COMPARISON OF DEPOSIT AND ADVANCE PAYMENT REQUIREMENTS IN PROPOSED VERIZON TARIFFS & EXAMPLE COMPETITOR TARIFFS

TARIFF PROVISIONS	Verizon's Proposed Tariffs	AT&T Tariff FCC No. 30	Sprint Tariffs	WorldCom TX Tariffs	US LEC Tariffs
Conditions for Requiring Security Deposit	Upon 10 business days' notice if: *Account balance has fallen in arrears in any 2 months out of any consecutive 12 months; *Customer owes $250,000 or more to Verizon that is 30 days or more past due; *Customer or its parent "informs [Verizon] or publicly states that it is unable to pay its debts as such debts become due"; *Customer or its parent has initiated a voluntary receivership or bankruptcy proceeding, or if such a proceeding has been initiated against the customer or its parent; *The senior debt securities of a customer or its parent are below investment grade; or *The senior debt securities of a customer or its parent are rated at the lowest investment grade rating category by a nationally recognized statistical rating organization, and are put on review for a possible downgrade. **§ 2.4.1(A)(2), (4)**	On 10 days' notice if the Customer or applicant: *Has an unsatisfactory credit rating, or *Has an insufficient credit history upon which a credit rating may be based, or *Has illegally or without appropriate authorization used or interfered with the service of the Company within the last 5 years, or *Is determined by the Company to be high risk due to past, or current, delinquencies. **§ 3.5.5(A)** To determine a customer's financial responsibility and/or the specific amount of any deposit required, AT&T will rely upon commercially reasonable factors to assess and manage the risk of non-payment, including but not limited to: payment history for telecommunications service, number of years in business, history of service with AT&T, bankruptcy history, current account treatment status, financial statement analysis, and commercial credit bureau rating. **§ 3.5.5(A)**	*Any applicant whose credit has not been duly established to the sole and exclusive satisfaction of Sprint may be required to make a deposit to be held as a guarantee of payment of charges at the time of application. *In addition, an existing customer may be required to make a deposit or increase a deposit presently held. **Schedule No. 11, § 2.11**	*Applicants or Customers whose credit worthiness is not acceptable to the Company or is not a matter of general knowledge, may be denied service or may be required to make, at any time, a deposit in an amount equaling up to three months, actual or estimated, charges for the services provided. *The Company may increase the amount of any deposit previously required if, in the Company's sole discretion, it is reasonably necessary under the circumstances. **TX PUC No. 1, § 2.7**	*In order to safeguard its interests, the company may require a customer to make a suitable deposit or provide a surety bond or letter of credit in the amount of the required deposit as a guarantee of the payment of charges. **FCC No. 2, § 2.5(A)(1)**

COMPARISON OF DEPOSIT AND ADVANCE PAYMENT REQUIREMENTS IN PROPOSED VERIZON TARIFFS & EXAMPLE COMPETITOR TARIFFS

TARIFF PROVISIONS	Verizon's Proposed Tariffs	AT&T Tariff FCC No. 30	Sprint Tariffs	WorldCom TX Tariffs	US LEC Tariffs
Amount and Type of Security Deposit	*May not exceed the actual or estimated rates and charges for the service for a two month period. Estimated rates will be based on past charges. *Company must provide a cash deposit or an irrevocable standby letter of credit naming the Telephone Company as the beneficiary. **§ 2.4.1(A)(4)**	*Up to an amount equal to the estimated nonrecurring charges and 3 times the estimated average monthly usage charges and/or the monthly recurring charges. **§ 3.5.5(A)** *In lieu of a cash deposit, the Company will accept irrevocable and commercially sound Bank Letters of Credit, Surety Bonds, pledges of assets as security under the Uniform Commercial Code or similar statutes, or Guarantees, or any combination of cash and these instruments. **§ 3.5.5(A)(1)**	*Up to the estimated charges for 6 months' service plus installation. *Sprint will accept Bank Letters of Credit instead of cash as deposits. **Schedule No. 11, § 2.11, 2.11.1**	*Up to 3 months' charges for a service or facilities which has a minimum payment period of one month; or the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable. **TX PUC No. 3, § 2.5.2(A)(1), 2.5.2(A)(2)**	*The Company may require a Customer to provide a "suitable deposit" or a surety bond or letter of credit in the amount of the required deposit. It may increase the amount of the deposit to reflect increases to the customer's annual bill. **FCC No. 2, § 2.5.4(A)(1)** *Up to 2 month's charges for a service or facility which has a minimum payment period of one month; or the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable. **FCC No. 3, § 2.5.4(A)(1), 2.5.4(A)(2)**

COMPARISON OF DEPOSIT AND ADVANCE PAYMENT REQUIREMENTS IN PROPOSED VERIZON TARIFFS & EXAMPLE COMPETITOR TARIFFS

TARIFF PROVISIONS	Verizon's Proposed Tariffs	AT&T Tariff FCC No. 30	Sprint Tariffs	WorldCom TX Tariffs	US LEC Tariffs
Conditions for Returning Deposit Before Discontinuance of Service	*Will be returned after customer requests in writing, after customer's account balance has been paid in full and the customer no longer satisfies the criteria for requiring a deposit or advance payment, and has not met such criteria for at least one year. *Will receive interest for period deposit is held, at same rate as provided for in current tariffs. [Rate varies, but currently ranges between approximately 8.9% and 12%] **§ 2.4.1(A)(4)**	*Deposits received from Customers who have made nondelinquent payments of undisputed bills for service over a period of twelve (12) consecutive billing months shall be returned to the Customer. **§ 3.5.5(A)(3)** *Interest rate will be 6% per year, unless a different rate has been established by the appropriate legal authority. **§ 3.5.5(A)(2)**	*Deposit may be retained for as long as the financial condition/credit worthiness of the customer is considered to be unsatisfactory by Sprint. *Deposit will be returned if at the end of six months of satisfactory credit payment history and a determination by Sprint that the financial condition/credit worthiness of the customer is satisfactory. *At the option of Sprint, such a deposit may be refunded or credited to the customer at any time prior to the termination of the service. * [Does not mention interest.] **Schedule No. 11, § 2.11, 2.11.2(b), 2.11.2(c)**	*Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. *Deposits held will accrue interest at a rate specified by the Company without deductions for any taxes on such deposits. **TX PUC No. 3, § 2.5.2(C), (D)**	*At the company's option, the deposit may be refunded or credited to the customer at any time prior to the termination of service. *Interest will be paid at the rate established annually by the State Public Service Commission for customer deposits. **FCC No. 2, § 2.5.A(2), 2.5(A)(3)**

COMPARISON OF DEPOSIT AND ADVANCE PAYMENT REQUIREMENTS IN PROPOSED VERIZON TARIFFS & EXAMPLE COMPETITOR TARIFFS

TARIFF PROVISIONS	Verizon's Proposed Tariffs	AT&T Tariff FCC No. 30	Sprint Tariffs	WorldCom TX Tariffs	US LEC Tariffs
Conditions for Requiring Advance Payments, Amount of Advance Payment	*Upon 7 days' notice, using same as conditions for requiring deposit. **§ 2.4.1(A)(2), (3)** *Amount will be estimated charges for the next bill month, and may be required monthly thereafter. *Within six months after first advance payment, Company will initiate "true up" procedures, and will have continued "true ups" at least twice a year. **§ 2.4.1(A)(3)**	*Upon "reasonable notice." **§ 3.5(H)** *If Company has reason to believe that a Customer may not be able to pay its charges because of a proven history of late payments by Customer or an affiliate; financial history which is not a matter of public record; or other objective information. **§ 3.5(H)** *May require a Customer who cannot establish credit satisfactory to the Company to make an advance payment as a condition of continued or new service. *May require from an applicant for new or continued service, advance payments of estimated usage charges, as well as other charges as may be deemed necessary by the Company for safeguarding its interests. **§ 3.5.13** *May require cash payment of bill in full within a specified number of days if believes on objective information that a customer may not be able to pay its BTS charges. **§ 3.5.3(B)**	*Customer may be required to make a prepayment on the account if customer's credit has not been established to Sprint's satisfaction. *Sprint will credit the prepayment to the balance on the first invoice. *If customer's credit or payment history becomes unsatisfactory to Sprint while you are a Sprint customer, or customer's credit does not support the amount of Services used, Sprint may require customer to make another prepayment or provide other security. *Sprint will not request a prepayment that exceeds the estimated charges for six months of Services. **FCC No. 1, § 3.3.1**	*To safeguard its interests, the Company may require a customer to make an advance payment before services and facilities are furnished. *The advance payment will not exceed an amount up to two months of estimated monthly usage charges. *In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the customer. *The advance payment will be credited to the customer's initial bill. **TX PUC No. 2, § 2.5.1**	*To safeguard its interests, the Company may require a customer to make an advance payment before services and facilities are furnished. *The advance payment will not exceed an amount equal to the non-recurring charge(s) and one month's charges for the service or facility. *In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated nonrecurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the customer. *The advance payment will be credited to the customer's initial bill. **FCC No. 3, § 2.5.3**

COMPARISON OF DEPOSIT AND ADVANCE PAYMENT REQUIREMENTS IN PROPOSED VERIZON TARIFFS & EXAMPLE COMPETITOR TARIFFS

TARIFF PROVISIONS	Verizon's Proposed Tariffs	AT&T Tariff FCC No. 30	Sprint Tariffs	WorldCom TX Tariffs	US LEC Tariffs
Relation of Advance Payment to Deposits	*Advance payment may be required "in lieu of" deposit. **§ 2.4.1(A)(2)**	*[Does not specify.]	*In addition to prepayment, if credit or payment history becomes unsatisfactory to Sprint, Sprint may require customer to make another prepayment or to "provide other security." **FCC No. 1 § 3.3.1**	Advance payment may be required "in addition to" deposit. **TX PUC No. 3, § 2.5.1**	A deposit may be required in addition to an advance payment. **FCC No. 3, § 2.5.4(B)**
When can refuse additional service/ discontinue service	On 7 days written notice by certified U.S. mail, if fails to meet certain provisions regarding payment, deposit, or advance payment. **§ 2.1.8**	Immediately and upon written notice, if customer: *Fails to make required advance payment. **§ 3.5(H)**; *Refuses to make payments required in **3.5.3.B** regarding full payment of bill in cash (*see above*). **§ 3.5.3(B)**; *Exceeds usage limits that may be established as specified in **§ 3.5.5(D)** *Customer's service may also be denied or discontinued for refusal to pay deposit (*notice period not specified*) **§ 3.5.5(A)**	Immediately and upon written notice, in the following circumstances: *Non-payment of any sum due to Sprint for service for more than 30 days beyond the date of rendition of the bill for such service; *Non-payment of any sum due to Sprint for service for more than 30 days beyond rendition of the bill on any Sprint account regardless of whether the application or service being canceled is related or unrelated to the account or service for which the sum is past due; *Failure to post the deposit required. **Schedule No. 11, § 2.15** *Failure to make the required prepayment. **FCC No. 1, § 3.7.2(1)**	Upon written notice (*notice period not specified*) if the Company, in its sole discretion, determines that the Customer is not capable of satisfying its payment obligations. **TX PUC No. 1, § 2.7**	*On 10 days' prior written notice, for nonpayment of any amounts owing to the Company, and after 30 days from the date of the invoice. **FCC No. 3, § 2.5.5(A)** [If discontinuance is under this section, US LEC may also declare all charges immediately due and payable.] **FCC No. 3, § 2.5.5(G)** *Immediately upon the customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law. **FCC No. 3, § 2.5.5(D)**

Exhibit D

verizon

Credit Rating and Payment Analysis

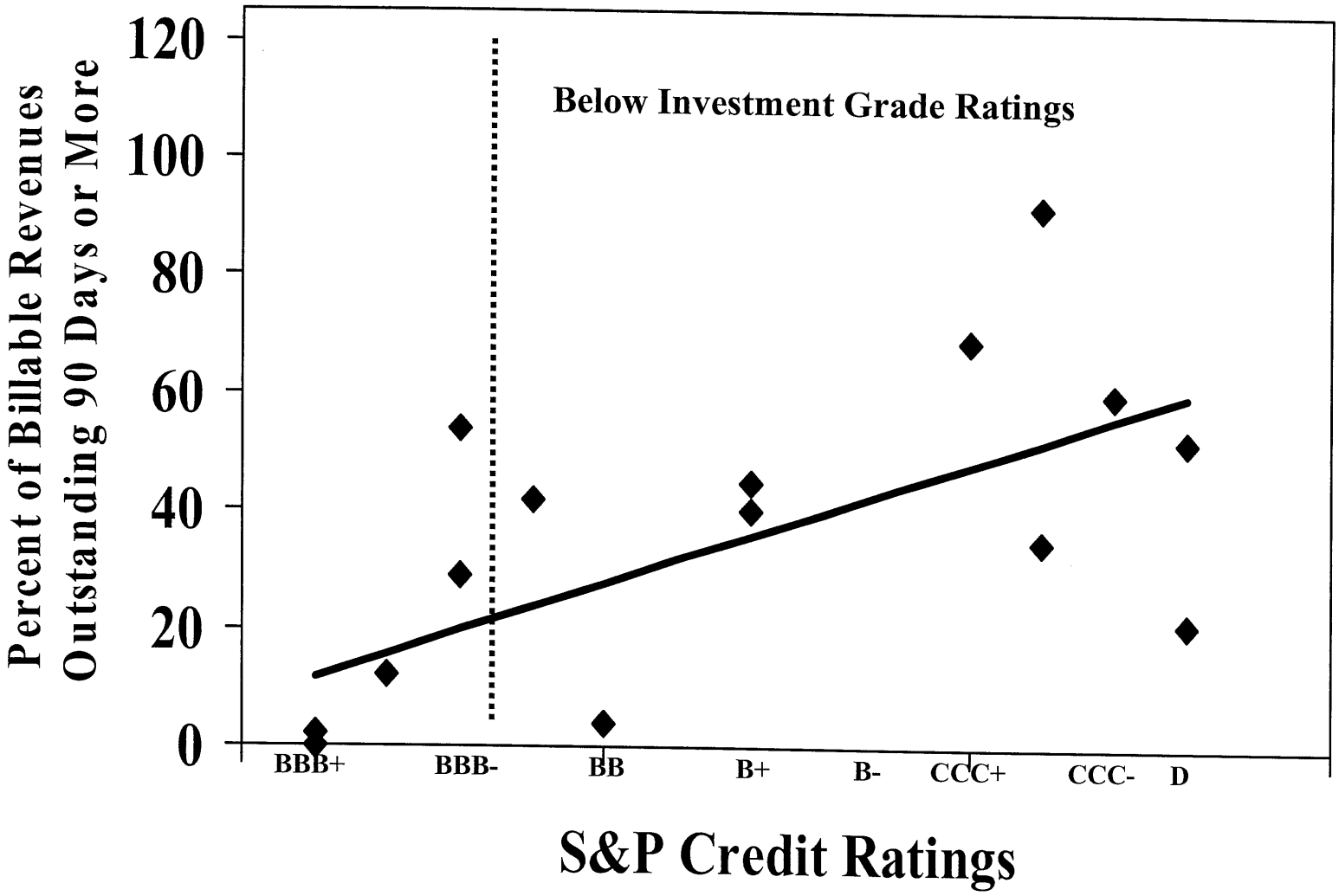


Exhibit E

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIV. ACTION NO. 02-1082

CORECOMM MASSACHUSETTS, INC.

Plaintiff

VERIZON NEW ENGLAND INC., d/b/a
VERIZON MASSACHUSETTS

Defendant

MEMORANDUM OF DECISION AND ORDER
ON PLAINTIFF'S APPLICATION FOR PRELIMINARY INJUNCTION

Plaintiff Corecomm Massachusetts, Inc. ("Corecomm") which provides long distance and local telephone services to Massachusetts customers, has brought this action for injunctive relief against defendant Verizon New England Inc. ("Verizon") which, pursuant to a contract, has allowed plaintiff to use its network facilities in return for a fee. After a hearing on March 12, 2002 and after thorough review of the submissions of both parties, I conclude that plaintiff's motion for a preliminary injunction must be denied because the requirements of Packaging Industries v. Cheney, 380 Mass. 609, 617 (1980) have not been satisfied. Specifically, this Court makes note of the following facts:

1. The dispute between the parties is essentially over how much plaintiff owes to the defendant for the services that defendant has concededly provided under a contract between the two dated February 4, 2000 (the "Contract").[1] This monetary dispute dates back to January 2001.

2. Plaintiff concedes that it does owe money to the defendant but contends that it does not

[1]The contract between the parties is attached as Exhibit C to the Affidavit of Jeanine Kirman, submitted in support of defendant's Opposition.

owe as much as defendant claims. It has nevertheless refused to pay any amounts, at least for the last six months. Similar billing disputes with Verizon are going on in seven other jurisdictions, where Corecomm has also failed to pay amounts (totaling $17 million) that Verizon claims that Corecomm owes.

3. The Contract provides a mechanism by which a party may dispute a charge. Specifically, the Contract requires that the party specify in writing which bills, by account number and date, it is challenging and which items on the bill are being disputed. See §3.6.2 of Attachment VIII of Contract. Plaintiff concedes that it has not specified the amounts it is disputing, much less stated in writing which bills it is challenging. It has instead chosen to engage in what counsel described at the hearing as "informal settlement negotiations" over the last several months in lieu of utilizing the Contract's procedures. Plaintiff's claim, however, rests largely on its contention that Verizon itself has failed to follow these procedures.

4. The plaintiff's failure to pay resulted in Verizon deciding on March 8, 2002 that it would no longer provide new services to plaintiff or allow modifications to existing services. This decision followed three notices of default sent by Verizon to Corecomm between May 2001 and January 2002 warning Corecomm that it would take precisely the kind of action it is now taking if no payment were made. It is this so-called "embargo" on providing further services which plaintiff seeks to have the Court order the defendant to lift.

In light of the above, this Court concludes that Corecomm has no reasonable likelihood of success on the merits and that it has failed to demonstrate irreparable harm of the sort which no award of monetary damages would suffice to remedy. As to the merits, Corecomm's claim is essentially that Verizon has violated the terms of the Contract by failing to follow the procedures set forth therein to resolve billing disputes. However, Corecomm itself has not taken the steps

necessary to initiate the procedures set forth in the Contract for such dispute resolution. Moreover, it concedes that it does owe some substantial some of money to Verizon but has refused to pay any amounts. There is nothing in the Contract to permit the withholding of even undisputed amounts in an effort to gain leverage as to the disputed charges.

As to the requirement of irreparable harm, this is essentially a dispute over money which ultimately resulted in an embargo on further services because plaintiff elected not to follow the procedures outlined in the Contract but instead decided not to pay anything. Any irreparable harm to plaintiff at this point in time would therefore appear to be self-inflicted, since Corecomm could have avoided the embargo by making a substantial payment to Verizon.[2] Certainly, if it is believes that it overpaid, Corecomm's legal remedies are adequate. On the other hand, if the request for injunctive relief were allowed, this in itself could cause irreparable harm to the defendant, since such an order would require Verizon not only to continue to supply services already in place but to provide new services to a party that has concededly failed to pay anything in the last six months for the services it has already received. In short, as Verizon stated in its Memorandum, this is either an attempt to "get something for nothing" or to gain leverage in a dispute over money. This Court is unwilling to exercise its equitable powers in aid of these efforts.

Accordingly, for all the foregoing reasons, and for the other reasons stated in the defendant's Opposition, the Motion for a Preliminary Injunction is hereby **DENIED**.

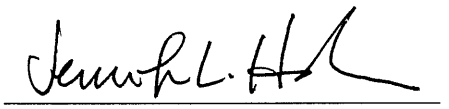
Dated: March 13, 2002

Janet L. Sanders, Superior Court Justice

[2]Indeed, it was stated at the argument on this Motion that this is precisely what has happened in other jurisdictions where embargos were threatened: Corecomm made a substantial payment toward its bills and Verizon decided not to proceed.

CERTIFICATE OF SERVICE

I hereby certify that, on this 7th day of August, 2002, copies of the "Reply Comments of Verizon" were sent by facsimile to the parties listed below.



Jennifer L. Hoh
703-351-3063

Chief, Wireline Competition Bureau,
(202) 418-2825

Chief, Pricing Policy Division
(202) 418-1567

Harry N. Malone
Swidler Berlin Sherreff Friedman, LLP
Counsel for ASCENT et al.
(202) 474 7645

David L. Lawson
Michael J. Hunseder
Sidley Austin Brown & Wood
Counsel for AT&T
(202) 736.8711

Robert J. Aamoth
Kelley Drye & Warren
Counsel for ALTS et al.
(202) 955 9792

Michael B. Fingerhut
Sprint
(202) 585-1894

Alan Buzacott
WorldCom
(202) 736-6492

\+ By Facsimile and First Class Mail
* By Electronic Mail and First Class Mail

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Winstar Communications, LLC	)	WC Docket No. 02-80
Emergency Petition for Declaratory Ruling	)	
Regarding ILEC Obligations to	)	
Continue Providing Services	)	
	)	
Verizon Petition for Declaratory Ruling Regarding	)	
CLEC Obligations to Cure Assigned Indebtedness	)	

REPLY COMMENTS OF VERIZON IN SUPPORT OF COUNTER-PETITION

Michael E. Glover
Edward Shakin
Ann H. Rakestraw
VERIZON
1515 North Court House Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3860

John H. Harwood II
William T. Lake
Robin A. Lenhardt
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037
(202) 663-6000

Counsel for Verizon

May 17, 2002

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Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	)	
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Winstar Communications, LLC	)	WC Docket No. 02-80
Emergency Petition for Declaratory Ruling	)	
Regarding ILEC Obligations to	)	
Continue Providing Services	)	
	)	
Verizon Petition for Declaratory Ruling Regarding	)	
CLEC Obligations to Cure Assigned Indebtedness	)	

REPLY COMMENTS OF VERIZON[1/] IN SUPPORT OF COUNTER-PETITION

INTRODUCTION AND SUMMARY

Verizon submits this reply in support of its counter-petition for declaratory ruling. The comments on the counter-petition make clear the need for the declaratory relief Verizon has requested. Multiple carrier bankruptcies are generating recurring controversy about the interplay of the Bankruptcy Code and the Communications Act in circumstances in which a carrier seeks to buy the assets of a carrier in bankruptcy. The bankruptcy courts are addressing the Bankruptcy Code issues, despite the efforts of opportunistic CLECs such as IDT to muddle the

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1/ The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc. These are: Cantle of the South, Inc. d/b/a Verizon Mid-States; GTE Midwest Incorporated d/b/a Verizon Midwest; GTE Southwest Incorporated d/b/a Verizon Southwest; The Micronesian Telecommunications Corporation; Verizon California Inc.; Verizon Delaware Inc.; Verizon Florida Inc.; Verizon Hawaii Inc.; Verizon Maryland Inc.; Verizon New England Inc.; Verizon New Jersey Inc.; Verizon New York Inc.; Verizon North Inc.; Verizon Northwest Inc.; Verizon Pennsylvania Inc.; Verizon South Inc.; Verizon Virginia Inc.; Verizon Washington, DC Inc.; Verizon West Coast Inc.; Verizon West Virginia Inc.

issues with misstatements about the requirements of "Telecom Law"; and there is a need for the Commission to clarify the treatment of the same transactions under the Communications Act.

The need for Commission action can scarcely be disputed. IDT urges the Commission not to answer the questions posed in the counter-petition, calling them abstract and ungrounded in the facts of an actual controversy.[2/] That stance ignores the extensive factual record in this proceeding about the Winstar bankruptcy and other bankruptcies that have raised similar issues. ASCENT, by contrast, urges the Commission to answer the questions exclusively in the abstract, without considering the factual record.[3/] Both avoidance maneuvers are unavailing. The record shows that recurrent, concrete disputes have produced uncertainty about Communications Act issues that have industry-wide implications. The Commission should eliminate that uncertainty by issuing the requested declaratory ruling.

The key to this dispute is that any CLEC that seeks to buy carrier assets out of bankruptcy and to serve some or all of the bankrupt's prior customers has multiple options. Depending on the CLEC's circumstances, each option can produce results fully consistent with the Bankruptcy Code and the Communications Act, if the CLEC makes a timely choice among them and then acts consistently with its choice. But uncertainty about the need to make a clear, timely choice or about the legal consequences of the options is an invitation to opportunistic behavior by purchasing CLECs. Verizon's counter-petition seeks clarification of the Communications Act consequences of the options and of the need for the purchasing CLEC to make a timely and consistent choice among them.

2/ *See* Comments of Winstar Communications, LLC (filed May 13, 2002), at 7-8.

3/ Comments of the Association of Communications Enterprises ("ASCENT") (filed May 13, 2002), at 2 n.2.

Important public interests are at stake. If purchasing CLECs are not required to make a timely, clear choice between assignment or rejection, and to give timely notice to affected customers, those customers will be left in the dark about events that may affect their continuity of service. Purchasing CLECs should not be allowed to endanger their customers' interests as a tactic to avoid financial obligations. Moreover, where a purchasing CLEC rejects the debtor's service arrangements, the public interest would not be served by exempting it from the transfer procedure that applies when any other carrier initiates new service. That would discriminate unreasonably against other carriers and create artificial incentives to use bankruptcy to obtain unfair advantage.

I. THE COMMISSION SHOULD MAKE CLEAR THAT THE COMMUNICATIONS ACT DOES NOT CONFLICT WITH THE BANKRUPTCY CODE.

It is established law that agencies and courts should construe federal statutes to be consistent wherever possible,[4/] and this is eminently possible here. The Communications Act regime, far from creating any exception to section 365 for carriers, fits comfortably with the

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4/ Indeed, it is well settled that the "Commission is obliged to reconcile its policies under the Communications Act with the policies of other federal laws and statutes, including the federal bankruptcy laws in particular." Memorandum Opinion and Order, *Applications of Dale J. Parsons, Jr. and Howard R. Green, Receiver*, 10 FCC Rcd 2718, 2720 ¶ 11 (1995). *See also* Memorandum Opinion and Order, *Application of O.D.T. International and Wyman W.C. Lai*, 9 FCC Rcd 2575, 2576 ¶ 7 (1994) ("The Bureau appropriately took into account the existence of [a] Bankruptcy Court order, and the federal policies favoring protection of creditors which underlie the bankruptcy laws, in making its decision . . .."); Declaratory Ruling, *Fox Television Stations Inc.*, 8 FCC Rcd 5341, 5349 ¶ 41 (1993) (the Commission should "minimize, to the extent possible, any conflict between Commission policy and that of federal bankruptcy law"); *Morton v. Mancari*, 417 U.S. 535, 551 (1974) ("when two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective"); *LaRose v. FCC*, 494 F.2d 1145, 1146 n.2 (D.C. Cir. 1974) ("agencies should constantly be alert to determine whether their policies might conflict with other federal policies and whether such conflict can be minimized.").

dictates of that section; any asserted conflict, or need to carve exceptions, arises only from the confusion generated by the erratic and opportunistic behavior of IDT and some other purchasing CLECs. Verizon's first requested declaratory ruling would confirm that communications law is consistent with bankruptcy law with respect to the options available to a purchasing CLEC.[5/]

Assumption and Assignment, with Cure. First, the purchasing CLEC may elect to have the debtor's existing service arrangements assigned to it and be assured of receiving continued service under those same arrangements, after curing any unpaid amounts. Section 365 of the Bankruptcy Code expressly provides this option, by authorizing a bankrupt CLEC to assume any executory contract and assign it to the purchaser. The duty to cure unpaid amounts is unambiguous under that provision.[6/] Once those unpaid amounts have been cured, the purchasing CLEC then stands in the shoes of the bankrupt and is entitled to receive service in its stead under the transferred service arrangements. Communications law is entirely consistent in this regard. When the purchaser steps into the debtor's shoes through an assumption and assignment under section 365, the purchaser becomes the subscriber also for purposes of communications law. Likewise, Verizon's tariffs are consistent with this treatment. A trustee

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5/ The cross-petition does not, as some commenters suggest, ask the Commission to decide any issue of bankruptcy law. *See* Comments of Winstar Communications, LLC at 5-6; Comments of ASCENT at 5-6; Comments of Global Crossing on Counter-Petition of Verizon for Declaratory Ruling (filed May 13, 2002), at 1. As is plain from the cross-petition, it poses issues only of communications law. However, the Commission cannot, as some commenters evidently wish, decide the communications law issues oblivious to what the Bankruptcy Code says about the same subject matter. Only by being cognizant of what the Bankruptcy Code provides can the Commission fulfill its obligation to interpret the Communications Act harmoniously if possible. Fortunately, the relevant bankruptcy law principles are clear, and harmony in this instance is easily achieved.

6/ *See* 11 U.S.C. §§ 365(b)(1)(A) (requiring trustee to "cur[e], or provid[e] adequate assurance . . . [of] cure, such default" upon assumption); *id.* at 365(f)(2) (similarly requiring that defaults be cured if the contract is assumed and assigned to a purchasing entity).

that assumes a contract under section 365 (including its cure obligations) and assigns it to the purchaser, is entitled to continued service under Verizon's tariff provided that the trustee "assumes the unexpired portion of the minimum period and the termination liability applicable to such services, if any."[7/] Under this scenario, section 365 itself imposes an obligation to cure: service is transferred seamlessly to the new CLEC, through a simple change of billing entry, and all terms of service remain the same.

Rejection of Prior Arrangements. Alternatively, the purchasing CLEC may cause the bankrupt CLEC to reject the existing service arrangements. To the extent the service arrangements are rejected, they are not included in what has been bought under bankruptcy.[8/] They can still have the existing arrangements assigned to them, but they must do so under tariff, just as any other carrier must do. Because in this scenario, there was no cure under bankruptcy law, the tariffs require that the buyer "assumes all outstanding indebtedness for such services."[9/] This accords with the meaning of "assignment" in general contract law.[10/] Again, such an assignment will allow the buyer's service to be treated as a continuation of the prior service.

7/ Verizon Telephone Companies, F.C.C. Tariff No. 1, Effective February 6, 2002, § 2.1.2(2).

8/ *See* 11 U.S.C. § 365(g) (providing that "the rejection of an executory contract . . . of the debtor constitutes a breach of such contract.")

9/ Verizon Telephone Companies, F.C.C. Tariff No. 1, Effective February 6, 2002, § 2.1.2(1).

10/ *See Ins. Co. of the West v. United States*, 243 F.3d 1367, 1374 (Fed. Cir. 2001) (observing that at common law, "the assignee of a claim step[s] into the shoes of the assignor for all purposes: 'an assignment transfers to the assignee the same right held by the assignor, with its advantages and disadvantages'") (quoting Restatement (2d) of Contracts, § 340 cmt. a); *Trailways Finance v. Euro-Flo Tours, Inc.*, 572 F. Supp. 1227, 1231 (D.N.J. 1983) (affirming the proposition that an assignee of a contract "stands in precisely the same shoes as its assignors" vis-à-vis the provisions of that contract).

If the buyer chooses not to take assignment, then it still has a right under telecommunications law to purchase new service from Verizon, and, as explained in our previous comments, can follow the same CLEC-to-CLEC transfer process that all other carriers must follow (including carriers who provide service to customers rejected by the purchaser).[11/] Commission policies require that notice be given to customers of the bankrupt CLEC whose services may be affected by the rejection of a CLEC-ILEC service arrangement.[12/] As long as customers are timely notified, they will know *in advance* of the transfer and the possibility of service disruption.

In short, no inherent conflict exists between bankruptcy law and communications law in their treatment of purchases of assets out of a CLEC bankruptcy. The controversy before the Commission stems from the failure by IDT and some other purchasing CLECs to make clear or timely choices between the options that the law allows them, and their attempts to manufacture an asserted conflict between bankruptcy and communications law to try to avoid the consequences of their own action or inaction.[13/]

11/ *See* Memorandum Opinion and Order, *Application of Verizon New England, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, 16 FCC Rcd 8988, 9077-78 ¶ 160 (2001) (finding that Verizon's transfer procedures "minimize[] service disruptions" and afford competitors "a meaningful opportunity to compete").

12/ *See* Federal Communications Commission, "Requirements for Carriers to Obtain Authority Before Discontinuing Service in Emergencies," Public Notice, DA 01-1257 (rel. May 22, 2001).

13/ Cavalier's contention that it sought to "do everything that Verizon suggests," Comments of Cavalier Telephone, LLC (filed May 13, 2002), at 5, is belied by the record in that case. That record shows that Cavalier, like IDT, sought only to game the system to avoid having to cure the debts associated with the service arrangements it sought to assume. Instead of exercising one of the two options available to it, Cavalier simultaneously sought to convince a Virginia state commission that it was entitled to assume pre-sale control of Net2000's special access

II. THE ASSERTED CONFLICTS BETWEEN THE BANKRUPTCY CODE AND THE COMMUNICATIONS ACT ARE NONEXISTENT.

A. Section 365 Does Not Undermine Competition in Telephone Service.

Section 365 on its face applies to all executory contracts, with no exception for telecommunications service arrangements.[14/] The cure requirement in that section reflects a congressional judgment that it is good public policy to allow creditors to demand a cure of pre-petition debts in return for further performance of executory contracts.[15/] That policy applies

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arrangements under bankruptcy rights, and to persuade the bankruptcy court that it had no need or intention of post-sale use of such arrangements because the Communications Act rights under its own interconnection agreement made it unnecessary for it to do so. This effort to play the bankruptcy court off against the state commission hardly qualifies as choosing between the two options contemplated by the Communications Act in a straightforward manner. Nor is there any merit to Cavalier's contention that the bankruptcy court somehow approved its actions. The bankruptcy court — which is considering contempt sanctions against Cavalier because of its evasive tactics — expressly reserved the question whether Cavalier was financially obligated to Verizon for Net2000's tariff liabilities under the Communications Act, just as the bankruptcy court did in this case. *In re Net2000 Communications Inc.*, Bankr. D. Del., Case No. 01-11324-11334, Chapter 11 ("*In re Net2000*"), Transcript of Omnibus Hearing Before the Hon. Mary F. Walrath held Jan. 18, 2002, at 17-18; *In re Net2000*, Order Regarding the Emergency Motion of the Operation Subsidiaries of Verizon Communications Inc. to Require Debtors and Cavalier Telephone Company to Cure Defaults Under the Debtors' Contracts With Verizon and for Contempt, Feb. 12, 2002.

14/ Cavalier is simply wrong when it claims that it has no special access arrangements that are standalone executory contracts. Comments of Cavalier Telephone, LLC at 5. The premise of Cavalier's assertion is that the special access circuits it obtained are covered by its interconnection agreements with Verizon, and that those agreements are not executory contracts. There is no need to address the second of these erroneous points here, as the first is so plainly mistaken. The interconnection provisions of the 1996 Act, 47 U.S.C. §§ 251-52, do not affect the Commission's access charge regime, as section 251(g) makes clear. *See* 47 U.S.C. § 251(g) (explicitly preserving the existing access charge structure). Thus, the Net2000 and Cavalier special access arrangements under Verizon's federal tariffs are separate, executory contracts. Each must either be assumed and cured, or rejected.

15/ *See* Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, S. Rep. No. 95-989, at 59 (1978), reprinted in 1978 U.S.C.C.A.N. 5787. *See also E. Air Lines, Inc. v. Ins. Co. of the State of Pa. (In re Ionosphere Clubs, Inc.)*, 85 F.3d 992, 999 (2d Cir. 1996) (noting "Congress's intent . . . 'to insure that the contracting parties receive the full benefit of their bargain if they are forced

fully to a telecommunications service arrangement under which a bankrupt CLEC has unpaid balances, where a purchaser of the CLEC's assets wants to use that service arrangement to serve its own customers.

The policy reflected in section 365 is manifestly sound. If the rule were otherwise — and a purchaser could take the benefits of the debtor's service arrangements without also taking their burdens — underlying carriers would face hundreds of millions of dollars in losses because there would be no incentive to cure, and greater incentive to avoid debt on existing service arrangements by resorting to bankruptcy. The result of those losses would be more carrier bankruptcies — CLECs, ILECs, and IXCs. While IDT's petition here purports to target only ILECs, the statutory provisions it cites apply to all carriers. Consequently, if IDT were successful in evading the obligations imposed under bankruptcy law and binding federal tariffs, that result would have broad repercussions for all carriers — local and long-distance alike — that provide service to other carriers that enter bankruptcy. Indeed, any change in the rule would allow carriers in bankruptcy an option (to assume contracts without cure) that is unavailable to other carriers. Such discriminatory treatment of carriers is not just bad policy, it is inconsistent with the Telecommunications Act.[16/]

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to continue performance.'") (quoting *In re Superior Toy & Mfg. Co.*, 78 F.3d 1169, 1174 (7th Cir. 1996)); *Coleman Oil Co. v. Circle K Corp.* (*In re Circle K Corp.*), 190 B.R. 370, 376 (B.A.P. 9th Cir. 1996); *In re Harry C. Partridge, Jr. & Sons, Inc.*, 43 B.R. 669, 671, 672 (Bankr. S.D.N.Y. 1984) (holding that requirement to cure default is intended to protect the nondebtor party to the contract, and that "assumption carries with it all of the burdens as well as the benefits of the contract"); *Cinicola v. Scharffenberger*, 248 F.3d 110, 119 (3d Cir. 2001). "The idea of cure in the Code is to provide the other party to the contract with the benefit of its economic bargain." 3 Collier on Bankr. § 365.05[3][b] (15th ed. 2002).

16/ 47 U.S.C. §202(a) (prohibiting unreasonable discrimination).

IDT and others nonetheless assert that implementing section 365 in a telecommunications context conflicts with the policy of the Telecommunications Act to promote competition.[17/] None of the variants of that argument is persuasive.

First, IDT argues that requiring a purchasing CLEC to cure unpaid amounts under service arrangements transferred to it will chill purchases of CLEC assets out of bankruptcy and thus take those assets out of competition.[18/] As we have previously shown, that assertion is unfounded.[19/] A purchaser will bid only what it believes the assets are worth to its operations. If a purchase of CLEC assets carries with it an obligation to cure unpaid amounts under assigned executory contracts with underlying carriers, the purchaser will take that obligation into account in the price it pays. The proceeds of the sale are thus simply reallocated, more to the underlying carriers that support the continued customer service through executory contracts and less to lenders and other general creditors, who are in the business of taking that risk. Section 365 exists precisely to achieve such a reallocation in favor of parties to assigned executory contracts of all kinds; and no commenter has proffered a reason why carriers should be uniquely denied the benefit of that section. The "chill" argument comes with particular irony from IDT, whose Chairman Howard Jonas gloated about IDT's $42.5 million winning bid, stating:

17/ Reply Comments of Winstar Communications, LLC (filed May 3, 2002), at 12; *see also* Comments of Z-Tel Communications, Inc. (filed May 13, 2002) (generally arguing that Verizon's counter-petition would affect competition in the industry).

18/ Comments of Winstar Communications, LLC at 23.

19/ Comments and Counter-Petition of Verizon (filed Apr. 29, 2002), at 22-23.

> "This is an incredible deal. It might not top the Dutch settlers buying the Island of Manhattan for twenty four dollars, but it comes pretty close. With almost $5 billion in assets and about $200 million in annual revenue, Winstar has great potential. And I have a plan to make it a very profitable venture."[20/]

IDT now attempts to make its bargain even better by taking service under Winstar's service arrangements without paying the cure that both bankruptcy law and Verizon's tariffs require.

Second, although IDT and others accuse ILECs of exercising monopoly power, a perfectly competitive market would require IDT to face the same options described above. If there were 100 equally-sized underlying carriers, so that IDT could choose to go to any of them, IDT would, in switching, be required to utilize the same CLEC-to-CLEC transfer procedure to which it objects. In other words, IDT would have the same choice between paying a cure or obtaining new service arrangements, even in a perfectly competitive market. Indeed, this is the identical choice that a purchasing CLEC has with respect to *any* executory contract under section 365 of the Bankruptcy Code. The purchaser must decide whether to take assignment of a lease or a license — each of which could be essential to continued operations. In making that decision, it knows that a rejection will require it to make substitute arrangements.[21/]

Third, IDT and other commenters assert that, if purchasing CLECs must request and obtain new service arrangements when they reject the old ones, that requirement will burden them to no purpose other than to harm them competitively.[22/] What those commenters ignore is

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[20/] IDT Press Release, "IDT Corp. Announces the Acquisition of Winstar Communications, Inc.," available at http://www.idt.net/idtwhats_docs/1201/12-20-01.html.

[21/] *See* Comments of SBC Communications, Inc. at 5-6.

[22/] *See, e.g.*, Reply Comments of Winstar Communications, LLC at 13 (analogizing to the Commission's rule forbidding the decombining of network elements). The same premise underlies ASCENT's proposal that purchasing CLECs be allowed to continue to receive service under service arrangements they have rejected, as long as they pay the underlying carrier some

that compliance with the CLEC-to-CLEC transfer procedure is the *norm* — whenever any CLEC wins a customer from another CLEC, it must request new service under the transfer procedure to serve its new customer. For example, for those customers IDT terminates, new carriers will have to follow the same process. To exempt a CLEC from that procedure merely because it purchased the customer from another CLEC in bankruptcy would give the purchasing CLEC an unfair advantage over all others — and would create an artificial incentive to use bankruptcies, real or contrived, as a means to obtain favored treatment in signing up new customers.

B. The Commission Should Confirm That Carriers Purchasing From A Bankrupt Carrier Must Comply With Tariff Provisions on "Assignment or Transfer".

Verizon's counter-petition asks the Commission to confirm that,

> "where one CLEC wishes to take over another's service arrangement with nothing more than a name change, that constitutes 'an assignment or transfer' within the meaning of Verizon's tariffs, so that the assignee/transferee CLEC must assume the outstanding indebtedness of the prior CLEC for such services."[23/]

The comments of IDT and others confirm the need for such a ruling, to prevent opportunistic behavior by purchasing CLECs. IDT has generated the present controversy by its inconsistent and contradictory behavior with respect to the options available to it under bankruptcy and communications law. As detailed in Verizon's Comments and Counter-Petition, IDT initially told the bankruptcy court that it recognized its duty to pay a cure for circuits that it wanted to keep in place, and that it planned to decide which service arrangements it wanted assumed and

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portion of the nonrecurring charges that would be payable upon a new request for service. *See* Comments of ASCENT at 7.

[23/] Comments and Counter-Petition of Verizon at 26. IDT suggests that, by requesting this declaration, Verizon concedes that its tariff is ambiguous, and that an ambiguous tariff must be construed against the carrier. Comments of Winstar Communications, LLC at 28. That is sophistry. The need for a declaratory ruling arises from IDT's brinkmanship. Verizon seeks this ruling because of IDT's lawless attempt to evade its clear obligations under Verizon's tariff.

assigned to it, and which it wanted rejected.[24] Consistent with that position, it sent letters to Verizon identifying the circuits and lines it wanted "transitioned" to IDT, stating that it "requires only that Verizon change the billing information associated with the listed circuits (a billing change only or 'Record Order') in order to undertake the transition of these circuits . . . ."[25] IDT also undertook to negotiate the amount of cure that corresponded to the services to be transitioned.[26]

In an about face, IDT later informed the bankruptcy court that it had never intended to have any of Winstar's agreements assumed and assigned to it, because "Telecom Law" entitled it to continue the service arrangements without the cure that section 365 on its face requires.[27] Winstar, at IDT's behest, informed the court that it rejected the arrangements; and IDT simultaneously asked the court to order Verizon not to cease performance under the arrangements. The Court rejected that request, stating:

> "If a contract or lease is not assumed, it is deemed rejected. The other party, the third party to any rejected or deemed rejected lease or contract *can terminate its service* and/or take possession of its property, subject again to any restrictions in the Telecommunications Act."[28]

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[24] *Id.* at 5-6.

[25] *Id.* at 7-8. IDT's description of those letters is slippery, suggesting that they may have constituted requests for new service rather than identifications of the Winstar service arrangements that IDT wanted to have assumed and assigned to it. *See* Reply Comments of Winstar Communications, LLC at 2-4. They were clearly the latter, identifying the specific lines and circuits to be transitioned. The principal letters are attached in the Annex to these Reply Comments.

[26] Comments and Counter-Petition of Verizon at 7-8.

[27] *Id.* at 10.

[28] *Id.* at 9-10 (emphasis supplied). The court in *Net2000* similarly held that Verizon was not obligated to continue to provide service to Cavalier, as Verizon's agreements with Net2000 had been rejected. *See In re Net2000*, Transcript of Hearing held January 18, 2002, at 17. *See also In re Net2000*, Order Regarding the Emergency Motion of the Operating Subsidiaries of

In short, the bankruptcy court told IDT emphatically that it cannot have things both ways. If IDT wishes to reject the contracts and avoid paying a cure, then the other party (Verizon or another underlying carrier) "can terminate its service" as a matter of bankruptcy law. The benefits of assignment do not come without the burdens. The court properly recognized that IDT's novel Telecommunications Act argument was not for it to decide.

IDT now puts that argument to the Commission. But, as we have shown, nothing in telecommunications law conflicts with the options that section 365 presents to a purchasing CLEC. To the extent that IDT rejects the pre-existing service arrangements in the bankruptcy proceeding, then those arrangements are not part of what IDT purchased in that proceeding. At that point, IDT is no different from any other third-party CLEC. As IDT itself proclaims, "IDT Winstar is a new, distinct entity, as different and [sic] from Old Winstar as any other CLEC is."[29/] As such, IDT has the right to choose whether to take an assignment under the tariff. But it

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Verizon Communications Inc. to Require Debtors and Cavalier Telephone Company to Cure Defaults Under the Debtors' Contracts With Verizon and for Contempt, Feb. 12, 2002, at 3-4.

IDT claims that *In re Personal Computer Network, Inc.*, 85 B.R. 507 (Bankr. N.D. Ill.), *appeal den'd.*, 89 B.R. 17 (N.D. Ill. 1998), supports its right to continue taking the same service and facilities from Verizon without paying a cure. Reply of Winstar Communications, LLC at 6. That is nonsense: in *Personal Computer Network* there was no analysis of any executory contracts, nor did the court purport to address any FCC issues. The case turned on Illinois Bell's failure to pursue its rights on a timely basis. The sale papers explicitly listed the debtor's phone numbers as an asset to be sold "free and clear" of all liens, claims and interests. It was not until after the sale order had been approved and the sale had closed that Illinois Bell demanded that the buyer pay the outstanding prepetition debt of the debtor in order to keep the numbers. *Id.* at 508. The bankruptcy court enjoined Illinois Bell from terminating the numbers on the ground that the numbers were property of the debtor's bankruptcy estate for bankruptcy law purposes (notwithstanding language in the tariffs to the contrary), and the sale order controlled. *Id.* at 509.

29/ Comments of Winstar Communications, LLC at 21.

does not have the right to demand the benefits of an assignment without taking one.[30] Consequently, to the extent IDT nonetheless wants these arrangements assigned to it, it should be treated the same as any other carrier that wants existing service arrangements assigned to it under Verizon's tariff.

III. TIMELY ELECTION BY A PURCHASING CLEC AND TIMELY NOTICE TO AFFECTED CUSTOMERS ARE ESSENTIAL TO ENSURE THAT CUSTOMERS ENJOY UNINTERRUPTED SERVICE.

It is essential that a purchasing CLEC make a timely choice between assignment or rejection of the bankrupt's underlying service arrangements and that timely notice be given to customers whose service is affected by any rejected arrangements. Timeliness is important to avoid gamesmanship by purchasing CLECs, to ensure that customers enjoy uninterrupted service, and to avoid frustration of the objectives of section 365 of the Bankruptcy Code.

The job of ensuring that purchasing CLECs make a timely election between their statutory options of assumption or rejection is largely in the hands of the bankruptcy courts. Fortunately, those courts appear to recognize the importance of a timely and clear election.[31] Where service arrangements are or may be rejected, it is also necessary that affected customers

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[30] IDT argues that the common practice of negotiating the amount of a cure violates the filed rate doctrine, because the tariff calls for assumption of "all outstanding indebtedness." Reply Comments of Winstar Communications, LLC at 18-19; *see* Comments of ASCENT at 7 (articulating an alternative solution). But the parties typically have differing views about the amount of indebtedness attributable to the service arrangements that are being assigned. Good faith settlement of those differences, in the context of a bankruptcy court proceeding, does not violate the filed rate doctrine. Indeed, IDT would likely portray an ILEC's refusal to negotiate such a settlement as an attempt to harm a competitor.

[31] The bankruptcy court in the *Winstar* proceedings twice rejected IDT's requests for extension of the 120-day period for IDT to identify which executory contracts it would accept or reject. *See* Comments and Counter-Petition of Verizon at 10-11.

be timely apprised under 47 C.F.R. § 63.71 of a possible impairment of service. Verizon's third requested ruling addresses that need by asking the Commission to "clarify the circumstances under which carriers in bankruptcy are obligated to provide notice of possible discontinuance or transfer to their customers."[32/]

For example, such notice should be given when a carrier in Chapter 11 initiates an auction of its assets. When a carrier files a motion for sale or acceptance of a purchase agreement, it should be required simultaneously to inform its customers of the possible down time or transfer of service upon completion of the sale. And a carrier should have to take the same step when it converts from a Chapter 11 bankruptcy to one under Chapter 7.

Timely notice need not, as some commenters suggest,[33/] lead to massive customer defections or destroy the value of the estate. As Verizon has previously shown, other carriers have provided notice to their customers under such circumstances without adverse effect. For example, when Rhythms filed its Chapter 11 petition, it notified its customers of that fact, warning of possible termination of service, and kept them informed of the progress of the bankruptcy proceeding and efforts to sell the assets. When the Rhythms assets were bought by another carrier, few of Rhythms' customers had terminated service.[34/]

32/ Comments and Counter-Petition of Verizon at 26.

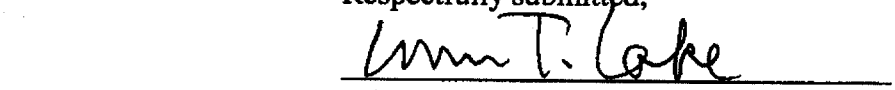
33/ Comments of Z-Tel Communications, Inc. at 6.

34/ Comments and Counter-Petition of Verizon at 20-21.

CONCLUSION

For these reasons and those stated in Verizon's previous submissions in this proceeding, the Commission should grant the declaratory relief requested in Verizon's Comments and Counter-Petition.

Respectfully submitted,



William T. Lake
John H. Harwood II
Robin A. Lenhardt
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037
(202) 663-6000

Michael E. Glover
Edward Shakin
Ann Rakestraw
VERIZON
1515 North Courthouse Road
Suite 500
Arlington, VA 2201-2909
(703) 351-3860

May 17, 2002

CERTIFICATE OF SERVICE

I, John Meehan, do hereby certify that on this 17th of May, 2002, I have caused true and correct copies of the foregoing Reply Comments of Verizon in Support of Counter-Petition to be served upon the following parties:

Chairman Michael K. Powell**
Federal Communications Commission
445 12th Street, SW
Room 8-B201
Washington, DC 20554

Commissioner Kevin J. Martin**
Federal Communications Commission
445 12th Street, SW
Room 8-C302
Washington, DC 20554

Commissioner Kathleen Q. Abernathy**
Federal Communications Commission
445 12th Street, SW
Room 8-B115
Washington, DC 20554

Commissioner Michael J. Copps**
Federal Communications Commission
445 12th Street, SW
Room 8-A302
Washington, DC 20554

Dorothy Attwood**
Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Room 5-C450
Washington, DC 20554

Qualex International**
Portals II
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Thomas M. Koutsky*
Z-TEL Communications, Inc.
1200 19th Street, NW
Suite 500
Washington, DC 20036

Mary C. Albert*
Allegiance Telecom, Inc.
1919 M Street, NW
Suite 420
Washington, DC 20036

Alan M. Shoer*
Cavalier Telephone, LLC
2134 West Laburnum Avenue
Richmond, VA 23227-4342

Aimee Jimenez*
Sharon J. Devine
Qwest Corporation
1020 19th Street, NW
Washington, DC 20036

** Hand delivery via messenger
* Via first class mail, postage pre-paid

Christopher M. Heimann*
Gary L. Phillips
Paul K. Mancini
SBC Communications Inc.
1401 Eye Street, NW
Suite 400
Washington, DC 20005

Aimee Jimenez*
Sharon J. Devine
Qwest Corporation
1020 19th Street, NW
Suite 700
Washington, DC 20036

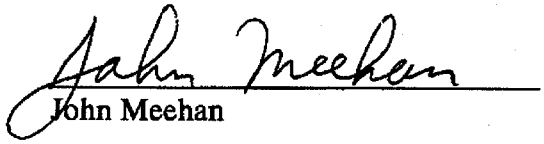
Michael J. Shortley III*
Global Crossing Ltd.
1080 Pittsford-Victor Road
Pittsford, NY 14534

Jonathan Banks*
Mary J. Peed
Richard M. Sbaratta
BellSouth Corporation
1133 19th Street, NW
Suite 900
Washington, DC 20036

Jack M. Zackin*
Kenneth Oettle
Andrew H. Sherman
Sills Cummins Radin Tischman Epstein & Gross PA
One Riverfront Plaza
Newark, NJ 07102
Counsel for Qwest Corporation

Charles C. Hunter*
Catherine M. Hannan
Hunter Communications Law Group
1424 16th Street, NW
Suite 105
Washintong, DC 20036
Counsel for ASCENT

Carl Wolf Billek*
Winstar Communications, LLC
520 Broad Street
Newark, NJ 07102-3111


John Meehan

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ANNEX

2/8

Rec'd 2/27/2002

winstar

February 26, 2002

VIA OVERNIGHT DELIVERY

Antonio Yanez
Verizon – Vice President
1095 Avenue of the Americas
14th Floor. Room 1402
New York. NY 10036

Marian Howell
Verizon – Account Manager
2980 Fairview Park Drive
10th Floor
Falls Church, VA 22042

Dear Mr. Yanez and Ms. Howell:

On behalf of Winstar Communications. LLC. Winstar of Delaware. LLC. Winstar of Hawaii. LLC. Winstar of New Jersey. LLC. Winstar of New York. LLC. Winstar of Pennsylvania. LLC. Winstar of Virginia. LLC. and Winstar of West Virginia. LLC (collectively. "Winstar"). this letter is to advise you that Winstar desires Verizon to transition to Winstar the circuits identified in the attached initial list. The customers whose service is associated with these circuits are in the process of being acquired by Winstar from Winstar Wireless, Inc. ("WWI") pursuant to an Order of the Bankruptcy Court, and Winstar will serve these customers as their preferred carrier of choice. In accordance with the Communications Act of 1934. as amended. and the Bankruptcy Court Order. Winstar requires the use of these circuits to serve its customers and. accordingly. submits this notice to obtain such circuits from Verizon.

Although Winstar is in the process of finalizing an interconnection agreement(s) with Verizon and obtaining the necessary regulatory approvals to transfer the customers without disrupting their service. and to operate in all of the Verizon Service Areas as a competitive local exchange carrier, Winstar is providing this initial list of circuits and notice of its intention to obtain these circuits to Verizon at this time in order to assure that the transition will be handled expeditiously. Winstar will advise Verizon as soon as the necessary agreements and approvals are obtained. Also. Winstar will advise Verizon of any changes or additions in the attached circuit list.

Winstar believes the provisioning of these circuits will not require any physical changes in the network configuration being used to serve these customers today, and requires only that Verizon change the billing information associated with the listed circuits (a billing change only or "Record Order") in order to undertake the transition of these circuits to

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Winstar. Winstar is providing this advance notice and information to assist Verizon in developing a streamlined process to transition the large number of affected circuits on a bulk basis in a smooth, orderly and timely manner, so that all service disrupting effects and delays, and unnecessary costs, can be avoided. Winstar believes that it has provided the information necessary to complete the transition, but if you believe it would be helpful, we would be pleased to meet with you in the near term Verizon to discuss how the details and timing of the transition may be coordinated to ensure that service is continued in an uninterrupted and transparent manner to customers.

Thank you in advance for your assistance with this matter. Feel free to contact me at (202) 367-7657 if you require anything further to facilitate the transition.

Very truly yours,

Stephen V. Murray
Senior Director

	A	B	C	D	E	F	G	
1								
2	MTA	Hub Address	Hub CLLI	HOLDING COMPANY	Carrier	WINSTAR Circuit ID	Carrier ECCKT	
3	WDC	7799 Leesburg Pike	FLCHVATC	VERIZON	Bell Atlantic	109/T3Z/FLCHVATC/MCLNVADG	36/HFGS/401333/CD	20
4	WDC	7799 Leesburg Pike	FLCHVATC	VERIZON	Bell Atlantic	110/T3Z/FLCHVATC/MCLNVADG	36/HFGS/401332/CD	20
5	BAL	7125 COLUMBIA GATEWAY	CLMAMDHS	VERIZON	Bell Atlantic - C&P	101 /T3Z /BLTMMDAFK04/CLMAMDHS	38/HFGS/400786	20
6	BAL	1 INVESTMENT PLACE	TWSNMD90	VERIZON	Bell Atlantic - C&P	101 /T3Z /BLTMMDAFK04/TWSNMD90	38/HFGS/400818/ /CM	41
7	BAL	10320 LITTLE PATUXENT PKWY	CLMAMDDU	VERIZON	Bell Atlantic - C&P	101/T3Z/BLTMMDAFK04/CLMAMDDU	38/HFGS/400649/ /CM	41
8	BAL	11350 MCCORMICK RD	HNVYMDBJ	VERIZON	Bell Atlantic - C&P	102 /T3Z /BLTMMDAFK04/HNVYMDBJ	38/HFGS/400673/ /CM	20
9	BAL	1 INVESTMENT PLACE	TWSNMD90	VERIZON	Bell Atlantic - C&P	102 /T3Z /BLTMMDAFK04/TWSNMD90	38/HFGS/400819/ /CM	41
10	BAL	10320 LITTLE PATUXENT PKWY	CLMAMDDU	VERIZON	Bell Atlantic - C&P	102/T3Z/BLTMMDAFK04/CLMAMDDU	38/HFGS/400650/ /CM	41
11	BAL	1 INVESTMENT PLACE	TWSNMD90	VERIZON	Bell Atlantic - C&P	103 /T3Z /BLTMMDAFK04/TWSNMD90	38/HFGS/400820/ /CM	41
12	PHI	1150 1ST AVENUE	KGPRPAFA	VERIZON	Bell Atlantic - C&P	101 /T3Z /KGPRPAFA /PHLAPADKK00	11/HFGS/096585/PA	21
13	WDC	8245 BOONE BLVD	VINNVAET	VERIZON	Bell Atlantic - C&P	101/T3Z/VINNVAET/WASHDCBLK04	36/HFGS/401628//CD/	20
14	WDC	6707 DEMOCRACY BLVD	BTHSMDAL	VERIZON	Bell Atlantic - C&P	111/T3Z/BTHSMDAL/WASHDCBLK04	36/HFGS/402182/CD	20
15	BAL	857 ELKRIDGE LANDING RD	LNTHMDCA	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	101 /T3Z /BLTMMDAFK04/LNTHMDCA	38/HFGS/400879/CM	41

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	A	B	C	D	E	F	G	
16	WDC	801 N PITT STREET	ALXNVA09	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	101/T3Z/ALXNVA09/WASHDCBLK04	36/HFGS/403663/CD	20
17	WDC	1101 King St	ALXNVACA	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	101/T3Z/ALXNVACA/WASHDCBLK04	36/HFGS/403617/CD/	20
18	WDC	2400 Research Blvd	RKVLMDCY	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	101/T3Z/RKVLMDCY/WASHDCBLK04	36/HFGS/403796/CD	20
19	WDC	8601 Georgia Ave	SLSPMDEW	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	101/T3Z/SLSPMDEW/WASHDCBLK04	36/HFGS/403108/CD	20
20	WDC	801 N PITT STREET	ALXNVA09	VERIZON	Bell Atlantic - C&P of MD & WV Silver Spring MD	102/T3Z/ALXNVA09/WASHDCBLK04	36/HFGS/403664/CD	20
21	PHI	2 Bala Plaza/333 City Line Ave	BCYNPABD	VERIZON	Bell Atlantic - PA	101 /T3Z /BCYNPABD /PHLAPADKK00	11/HFGS/096882/ /PA	21
22	PHI	300 Berwyn Park	BWYNPAAD	VERIZON	Bell Atlantic - PA	101 /T3Z /BWYNPAAD /PHLAPADKK00	11/HFGS/097183/PA	21
23	PHI	1001 Conshohocken Road	CNSHPAWI	VERIZON	Bell Atlantic - PA	101 /T3Z /CNSHPAWI /PHLAPADKK00	11/HFGS/097132/PA	21
24	PHI	200 North Warner Road	KGPRPA02	VERIZON	Bell Atlantic - PA	101 /T3Z /KGPRPA02 /PHLAPADKK00	11/HFGS/097171	21
25	PHI	3600 Market Street	PHLAPAYG	VERIZON	Bell Atlantic - PA	101/T3Z/PHLAPADKK00/PHLAPAYG	11/HFGS/097191/ /PA	21
26	PHI	3600 Market Street	PHLAPAYG	VERIZON	Bell Atlantic - PA	102/T3Z/PHLAPADKK00/PHLAPAYG	11/HFGS/097192/ /PA	21

518

	A	B	C	D	E	F	G	
27	PHI	502 W Germantown Pike	PLMGPASI	VERIZON	Bell Atlantic-Bell of PA Pittsburgh PA BPA prior	103 /T3Z /PHLAPADKK00/PLMGPASI	11/HFGS/097817/PA	21
28	TAM	424 CENTRAL AVE	SPBGFLRS	VERIZON	GTE - Florida	104 /T3Z /SPBGFLRS /TAMPFLCMK03	69/HFGS/101234/GTES	F1
29	TAM	424 CENTRAL AVE	SPBGFLRS	VERIZON	GTE - Florida	105 /T3Z /SPBGFLRS /TAMPFLCMK03	69/HFGS/101235/GTES	F1
30	TAM	400 N. Tampa	TAMQFLTA	VERIZON	GTE - Florida	106/T3Z/TAMPFLCMK03/TAMQFLTA W02	69/HFGS/101240/GTES	F1
31	TAM	400 N. Tampa	TAMQFLTA	VERIZON	GTE - Florida	106/T3Z/TAMPFLCMK03/TAMQFLTA W02	69/HFGS/101240/GTES	F1
32	LOS	215 Long Beach	LNBHCA06	VERIZON	GTE-California, NEXTLINK, PacBell (Northern California)	102 /T3Z /LNBHCA06 /LSANCASSW22	11/HFCU/172010/008/PT, 3T-WSI-LBW-0002, 81/HFGS/401456/GTEW	001
33	BOS	10 Tower Office Park	WOBNMAIG	VERIZON	New England Bell - NYNEX	101 /T3Z /BSTNMAWHK01/WOBNMAIG	95.HFGS.584060..NE	617
34	BOS	10 Tower Office Park	WOBNMAIG	VERIZON	New England Bell - NYNEX	113 /T3Z /BSTNMAWHK01/WOBNMAIG	95/HFGS/577918	617
35	BOS	10 Tower Office Park	WOBNMAIG	VERIZON	New England Bell - NYNEX	114 /T3Z /BSTNMAWHK01/WOBNMAIG	95/HFGS/577919	617
36	BOS	7 NEW ENGLAND EXEC.	BURLMAAQ	VERIZON	New England Bell - NYNEX	121 /T3Z /BSTNMAWHK01/BURLMAAQ	95/HFGS/577921	617
37	BOS	7 NEW ENGLAND EXEC.	BURLMAAQ	VERIZON	New England Bell - NYNEX	122 /T3Z /BSTNMAWHK01/BURLMAAQ	95/HFGS/577922	617
38	BOS	7 NEW ENGLAND EXEC.	BURLMAAQ	VERIZON	New England Bell - NYNEX	123 /T3Z /BSTNMAWHK01/BURLMAAQ	95/HFGS/577923	617

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	A	B	C	D	E	F	G	
39	BOS	50 Rowes Wharf	BSTNMALU	VERIZON	New England Tel NYNEX Boston MA NE=Alternate ID	101/T3Z/BSTNMALU/BSTNMAWHK01	95/HFGS/569879/NE	617
40	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	101 /T3Z /NYCMNYZRK63/NYCNNYDA	32.HFGS.580799..NY	212
41	NYC	1330 7th Avenue of the Americas	NYCMNYAW	VERIZON	NYNEX	101/T3Z/NYCMNYAW/NYCMNYZRWES	32/HFGS/576354/NY	212
42	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	102 /T3Z /NYCMNYZRK63/NYCNNYDA	32.HFGS.580800..NY	212
43	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	103 /T3Z /NYCMNYZRK63/NYCNNYDA	32.HFGS.580801..NY	212
44	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	104 /T3Z /NYCMNYZRK63/NYCNNYDA	32.HFGS.580802..NY	212
45	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	121 /T3Z /NYCMNYZRK63/NYCNNYDA	32/HFGS/576582//NY/	212
46	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	122 /T3Z /NYCMNYZRK63/NYCNNYDA	32/HFGS/576583/NY	212
47	NYC	1330 7th Avenue of the Americas	NYCMNYAW	VERIZON	NYNEX	124/T3Z/NYCMNYAW/NYCMNYZRK63	32/HFGS/576624/NY	212
48	NYC	10711 1ST AVE	NYCNNYDA	VERIZON	NYNEX	135 /T3Z /NYCMNYZRK63/NYCNNYDA	32/HFGS/577338//NY/	212
49	NYC	1515 Broadway	NYCMNYBK	VERIZON	NYNEX	NYC02/T3 /NYCMNYZRK62/NYCMNYBK	32/HFGS/105073	212
50	NYC	1330 7th Avenue of the Americas	NYCMNYAW	VERIZON	NYNEX	125/T3Z/NYCMNYAW/NYCMNYZRK63	125/T3Z/NYCMNYAW/NYCMNYZR, 32/HFGS/576625/NY	212

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(212) 719-4857

winstar

1850 M Street, NW
Suite 300
Washington, DC 20036
(202) 969 9800

March 27, 2002

VIA OVERNIGHT DELIVERY

Antonio Yanez
Verizon – Vice President
1095 Avenue of the Americas
14th Floor, Room 1402
New York, NY 10036

Marian Howell
Verizon – Account Manager
2980 Fairview Park Drive
10th Floor
Falls Church, VA 22042

Dear Mr. Yanez and Ms. Howell:

On behalf of Winstar Communications, LLC, Winstar of Delaware, LLC, Winstar of Hawaii, LLC, Winstar of New Jersey, LLC, Winstar of New York, LLC, Winstar of Pennsylvania, LLC, Winstar of Virginia, LLC, and Winstar of West Virginia, LLC (collectively, "Winstar"), this letter is to advise you that Winstar desires Verizon to transition to Winstar the resale service accounts identified on the attached list. For each account identified, Winstar also provides the customer name and working telephone number.

Winstar has executed interconnection agreements with Verizon and is in the process of obtaining the necessary regulatory approvals to transfer the customers without disrupting their service, and to operate in all of the Verizon Service Areas as a competitive local exchange carrier. Winstar is providing the attached list of accounts and notice of its intention to provide resale service to the customers associated with each account in order to assure that the transition will be handled expeditiously. Winstar will advise Verizon of any changes or additions to the attached list.

Winstar

Winstar believes that its request to transition the accounts to Winstar will require no physical changes in the network configuration being used to serve these customers today, and requires only that BellSouth change the billing information associated with the listed accounts. Winstar is providing this advance notice and information to assist BellSouth in developing a streamlined process to transition the large number of affected accounts on a bulk basis in a smooth, orderly and timely manner, so that all service disrupting effects and delays, and unnecessary costs, can be avoided. Winstar believes that it has provided the information necessary to complete the transition, but if you believe it would be helpful, we would be pleased to meet with you to discuss how the details and timing of the transition may be coordinated to ensure that service is continued in an uninterrupted and transparent manner to customers.

Thank you in advance for your assistance with this matter. Feel free to contact me at (202) 367-7657 if you require anything further to facilitate the transition.

Very truly yours,

Stephen V. Murray
Senior Director

winstar

1850 M Street, NW
Suite 300
Washington, DC 20036
(202) 969 9800

March 28, 2002

VIA OVERNIGHT DELIVERY

Antonio Yanez
Verizon – Vice President
1095 Avenue of the Americas
14th Floor, Room 1402
New York, NY 10036

Marian Howell
Verizon – Account Manager
2980 Fairview Park Drive
10th Floor
Falls Church, VA 22042

Dear Mr. Yanez and Ms. Howell:

On behalf of Winstar Communications, LLC, Winstar of Delaware, LLC, Winstar of Hawaii, LLC, Winstar of New Jersey, LLC, Winstar of New York, LLC, Winstar of Pennsylvania, LLC, Winstar of Virginia, LLC, and Winstar of West Virginia, LLC (collectively, "Winstar"), this letter is to advise you that Winstar desires Verizon to transition to Winstar the circuits identified in the attached list, which supplements the list provided to you on February 26, 2002.

Winstar has executed interconnection agreements with Verizon and is in the process of obtaining the necessary regulatory approvals to transfer the customers without disrupting their service, and to operate in all of the Verizon Service Areas as a competitive local exchange carrier. Winstar is providing this list of circuits and notice of its intention to obtain these circuits to Verizon at this time in order to assure that the transition will be handled expeditiously. Winstar will advise Verizon of any changes or additions to the attached circuit list.

winstar

Winstar believes the provisioning of these circuits will not require any physical changes in the network configuration being used to serve these customers today, and requires only that Verizon change the billing information associated with the listed circuits (a billing change only or "Record Order") in order to undertake the transition of these circuits to Winstar. Winstar is providing this advance notice and information to assist Verizon in developing a streamlined process to transition the large number of affected circuits on a bulk basis in a smooth, orderly and timely manner, so that all service disrupting effects and delays, and unnecessary costs, can be avoided. Winstar believes that it has provided the information necessary to complete the transition, but if you believe it would be helpful, we would be pleased to meet with you to discuss how the details and timing of the transition may be coordinated to ensure that service is continued in an uninterrupted and transparent manner to customers.

Thank you in advance for your assistance with this matter. Feel free to contact me at (202) 367-7657 if you require anything further to facilitate the transition.

Very truly yours,

Stephen V. Murray
Senior Director

Retained Circuits-March 25 Keepers-list

Winstar MTA	Winstar Circuit ID	TelcoCarrierCircuitID	ier Name	ier Name	A Location	Z Location	ice Type	MRC	
WDC	101 /T3Z /WASHDCBLK04/WASHDCMT	4017T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	102 /T3Z /WASHDCBLK04/WASHDCMT	4018T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	103 /T3Z /WASHDCBLK04/WASHDCMT	4019T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	106 /T3Z /WASHDCBLK04/WASHDCMT	4022T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	VDC06/T3 /WASHDCBLW01/WASHDCMTK32	4002T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	ASHDCMTK32	DS3	1150.54	202H
WDC	VDC08/T3 /WASHDCBLW01/WASHDCMTK32	4004T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	/ASHDCMTK3	DS3	1150.54	202H
WDC	VDC09/T3 /WASHDCBLW01/WASHDCMTK32	4005T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	ASHDCMTK32	DS3	1150.54	202H
WDC	VDC12/T3 /WASHDCBLW01/WASHDCMTK32	4008T3ZWASHDCMTK32WASHDCBLW01	VERIZON	VERIZON	WASHDCBLW01	/ASHDCMTK3	DS3	1150.54	202H
WDC	VDC17/T3 /WASHDCBLW01/WASHDCMTK32	4013T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	ASHDCMTK32	DS3	1150.54	202H
WDC	VDC18/T3 /WASHDCBLW01/WASHDCMTK32	4014T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	/ASHDCMTK3	DS3	1150.54	202H
WDC	/DC19/T3Z /WASHDCBLW01/WASHDCMTK32	4015T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	/ASHDCMTK3	DS3	1150.54	202H
WDC	108 /T3Z /WASHDCBLK04/WASHDCMT	4024T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	109 /T3Z /WASHDCBLK04/WASHDCMT	4025T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
WDC	112 /T3Z /WASHDCBLK04/WASHDCMT	4028T3ZWASHDCBLW01WASHDCMTK35	VERIZON	VERIZON	WASHDCBLK04	WASHDCMT	DS3	1150.54	202H
NYC	5009 /T3 /NYCMNYBSK44/NYCMNYZRWES	5009T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYBSK44	CMNYZRWES	DS3	1063.45	212M
NYC	NYC07/T3/NYCMNYWSK44/NYCMNYZRWES	5011T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC08/T3/NYCMNYWSK44/NYCMNYZRWES	5012T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC10/T3 /NYCMNYBSK44/NYCMNYZRWES	5014T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYBSK44	CMNYZRWES	DS3	1067.68	212M
NYC	NYC11/T3 /NYCMNYWSK44/NYCMNYZRWES	5015T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC13/T3Z /NYCMNYWSK44/NYCMNYZRWES	5017T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	120 /T3Z /NYCMNYWSK44/NYCMNYZRWES	5017T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC14/T3Z /NYCMNYWSK44/NYCMNYZRWES	5018T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC18/T3Z /NYCMNYWSK44/NYCMNYZRWES	5022T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC23/T3Z /NYCMNYWSK44/NYCMNYZRWES	5024T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC24/T3Z /NYCMNYWSK44/NYCMNYZRWES	5025T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M
NYC	NYC21/T3Z /NYCMNYWSK44/NYCMNYZRWES	5026T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212M

NYC	104 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5028T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	105 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5029T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	106 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5032T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	117 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5033T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	118 /T3Z	/NYCMNYZRK63/NYCMNYZRWES	5034T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYZRK63	CMNYZRWES	DS3	1062.04	212N
NYC	119 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5035T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC		133E /T3Z /NYCMNYWSK44/NYCMNYZRWES	5037T3NYCMNYWSK45NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	109 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5043T3NYCMNYWSK45NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	101 /T3Z	/NYCMNYWS /NYCMNYZRK63	5050T3NYCMNYWSK45NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWS	CMNYZRK63	DS3	986.21	212N
NYC		97/HFGL/001492/NYC/WWI /	5000T3NYCMNYBWK41NYCMNYZRWES	VERIZON	VERIZON	NYCMNYZRWES	CMNYBWK41	DS3	1650.06	212N
NYC		96/HFGL/001204/NYC/WWI	5000T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC		97/HFGL/001491/NYC/WWI	5002T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC		NYC01/T3 /NYCMNYWSK44/NYCMNYZRWES	5003T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
NYC	NYC01/T3	/NYCMNYZRK62/NYCMNYZR	5004T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYZRK62	NYCMNYZR	DS3	1062.04	212N
NYC	116 /T3Z	/NYCMNYWSK44/NYCMNYZRWES	5031T3NYCMNYWSK44NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212N
PHI	PHI07/T3Z	/PHLAPADKW99/PHLAPAMKK32	3203T3ZPHLAPADKW99PHLAPAMKK32	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK32	DS3	1787.56	215N
PHI	PHI03/T3	/PHLAPADKW99/PHLAPAMKK34	3402T3ZPHLAPADKW99PHLAPAMKK34	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK34	DS3	1816.75	215N
PHI	PHI04/T3	/PHLAPADKW99/PHLAPAMKK34	3403T3ZPHLAPADKW99PHLAPAMKK34	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK34	DS3	1787.56	215N
PHI	107 /T3Z	/PHLAPADKK00/PHLAPAMK	3410T3ZPHLAPADKW99PHLAPAMKK34	VERIZON	VERIZON	PHLAPADKK00	PHLAPAMK	DS3	1787.56	215N
PHI	108 /T3Z	/PHLAPADKK00/PHLAPAMK	3411T3ZPHLAPADKW99PHLAPAMKK34	VERIZON	VERIZON	PHLAPADKK00	PHLAPAMK	DS3	1787.56	215N
PHI	106 /T3Z	/PHLAPADKK00/PHLAPAMK	3512T3ZPHLAPADKW99PHLAPAMKK35	VERIZON	VERIZON	PHLAPADKK00	PHLAPAMK	DS3	1787.56	215N
PHI	PHI05/T3Z	/PHLAPADKW99/PHLAPAMKK34	3404T3ZPHLAPADKW99PHLAPAMMKK34	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK34	DS3	4188.57	215N
PHI	PHI06/T3Z	/PHLAPADKW99/PHLAPAMKK34	3405T3ZPHLAPADKW99PHLAPAMMKK34	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK34	DS3	4188.57	215N
PHI	103E /T3Z	/PHLAPADKW99/PHLAPAMKK34	3406T3ZPHLAPADKW99PHLAPAMKK34	VERIZON	VERIZON	PHLAPADKW99	HLAPAMKK34	DS3	2750.09	215N
PHI	102 /T3Z	/PHLAPADKK00/PHLAPAMK	3503T3ZPHLAPADKW99PHLAPAMKK35	VERIZON	VERIZON	PHLAPADKK00	PHLAPAMK	DS3	3147.17	215N
PHI		WTI98PHLAPADS3.03	3201T3ZFTWSPAFWK32PHLAPADKW99	VERIZON	VERIZON	FTWSPAFW	PHLAPADK	DS3	3630	215N
BAL	BAL07/T3Z	/BLTMMDAFW01/BLTMMDCHK34	8006T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK34	DS3	1150.54	410N
BAL	104 /T3Z	/BLTMMDAFK04/BLTMMDCH	8001T3ZBLTMMDAFW01BLTMMDCHK13	VERIZON	VERIZON	BLTMMDAFK04	BLTMMDCH	DS3	1150.54	410N
BAL	105 /T3Z	/BLTMMDAFK04/BLTMMDCH	8002T3ZBLTMMDAFW01BLTMMDCHK13	VERIZON	VERIZON	BLTMMDAFK04	BLTMMDCH	DS3	1150.54	410N
BAL	BAL03/T3Z	/BLTMMDAFW01/BLTMMDCH	8005T3ZBLTMMDAFW01BLTMMDCHK35	VERIZON	VERIZON	BLTMMDAFW01	BLTMMDCH	DS3	1150.54	410N
BAL	BAL04/T3Z	/BLTMMDAFW01/BLTMMDCHK35	8007T3ZBLTMMDAFW01BLTMMDCHK35	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK35	DS3	1150.54	410N
BAL	BAL08/T3Z	/BLTMMDAFW01/BLTMMDCHK34	8008T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK34	DS3	1150.54	410N
BAL	BAL05/T3Z	/BLTMMDAFW01/BLTMMDCHK35	8009T3ZBLTMMDAFW01BLTMMDCHK35	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK35	DS3	1150.54	410N
BAL	BAL09/T3Z	/BLTMMDAFW01/BLTMMDCHK34	8010T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK34	DS3	1150.54	410N
BAL	107 / T3Z /	BLTMMDAFK04/BLTMMDCH	8010T3ZBLTMMDCDW01BLTMMDCHK13	VERIZON	VERIZON	BLTMMDAFK04	BLTMMDCH	DS3	0	410N
BAL	BAL10/T3Z	/BLTMMDAFW01/BLTMMDCHK34	8012T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFW01	TMMDCHK34	DS3	1150.54	410N

BAL	101 /T3Z /BLTMMDAFK04/BLTMMDCH	8014T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFK04	BLTMMDCH	DS3	1150.54	410
BAL	102 /T3Z /BLTMMDAFK04/BLTMMDCH	8016T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAFK04	BLTMMDCH	DS3	1743.93	617
BOS	101 /T3Z /BSTNMAHA /BSTNMAWHK01	4501T3BSTNMAHAK31BSTNMAWHW01	VERIZON	VERIZON	BSTNMAHA	TNMAWHK01	DS3	1743.93	617
BOS	102 /T3Z /BSTNMAHA /BSTNMAWHK01	4502T3BSTNMAHAK31BSTNMAWHW01	VERIZON	VERIZON	BSTNMAHA	TNMAWHK01	DS3	1743.93	617
NYC	115 /T3Z /NYCMNYWSK44/NYCMNYZRWES	5030T3NYCMNYWSK44NYCMNYARWES	VERIZON	VERIZON	NYCMNYWSK44	CMNYZRWES	DS3	1062.04	212
TAM	69/HFFS/100807/GTES-WTI	2302T3ZTAMPFLCMW02TAMPFLXAK06	Verizon	GTE	0	0	DS3	1977.9	F11S
TAM	69/HFFS/100808/GTES-WTI	2303T3ZTAMPFLCMW02TAMPFLXAK06	Verizon	GTE	0	0	DS3	1977.9	F11S
TAM	TAM08/T3Z /TAMPFLCMW02/TAMPFLCMK03	2309T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMW02	AMPFLCMK03	DS3	1977.9	F11S
TAM	TAM10/T3Z /TAMPFLCMW02/TAMPFLXAK08	2312T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMW02	AMPFLXAK08	DS3	1977.9	F11S
TAM	105 /T3Z /TAMPFLCMK03/TAMPFLXA	2315T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMK03	TAMPFLXA	DS3	1977.9	F11S
TAM	101 /T3Z /TAMPFLCMK03/TAMPFLXA	2322T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMK03	TAMPFLXA	DS3	1977.9	F11S
TAM	101 /T3Z /TAMPFLCMK03/TAMPFLXA	2322T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMK03	TAMPFLXA	DS3	1977.9	F11S
TAM	102 /T3Z /TAMPFLCMK03/TAMPFLXA	2323T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMK03	TAMPFLXA	DS3	1977.9	F11S
TAM	106 /T3Z /TAMPFLCMK03/TAMQFLTAW02	69HFGS101240GTES	Verizon	GTE	400 N. Tampa	TAMQFLTA	DS3	1220	F11S
TAM	TAM11/T3Z /TAMPFLCMW02/TAMPFLXAK08	2313T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCMW02	AMPFLXAK08	DS3	1977.9	F11S
WDC	WDC07/T3 /WASHDCBLW01/WASHDCMTK32	4003T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBLW01	ASHDCMTK32	DS3	1150.54	202
BAL		38HCGS791554CM	VERIZON	VERIZON	250 West Pratt St.		DS1	142.2	410
LOS		81HCGS465358GTEW	Verizon	GTE	5001 Airport Plaza Dr		DS1	197.24	C11S
BAL		38HCGS792438CM	VERIZON	VERIZON	938 Elkridge Rd. Linthicum		DS1	306.32	410
BAL		38HCGS792439CM	VERIZON	VERIZON	938 Elkridge Landing		DS1	306.32	410
BAL		38HCGS789893CM	VERIZON	VERIZON	939 Elkridge Landing		DS1	306.32	410
BAL		38HCGS789991CM	VERIZON	VERIZON	31 Hopkins Plaza		DS1	142.2	410
BAL		38HCGS790012CM	VERIZON	VERIZON	31 Hopkins Plaza		DS1	142.2	410
BAL		38HCGS790059CM	VERIZON	VERIZON	401 E Pratt Street		DS1	142.2	410
BAL		38HCGS790060CM	VERIZON	VERIZON	401 E Pratt Street		DS1	142.2	410
BAL		38HCGS791937CM	VERIZON	VERIZON	535 Hampton Lane(CS says 555 Hampton)		DS1	289.95	410
BAL		38HCGS791938CM	VERIZON	VERIZON	2400 Fort Ave (Fort McHenry)		DS1	142.2	410
BAL		38HCGS792737CM	VERIZON	VERIZON	31 Hopkins Plaza		DS1	198.24	410
BAL		38HCGS794082CM	VERIZON	VERIZON	300 North Greene St		DS1	198.24	410
BAL		38HCGS795780CM	VERIZON	VERIZON	2603 Leahy St		DS1	198.24	410
BOS		95HCGS588490NE	VERIZON	VERIZON	90 Devonshire		DS1	188.54	617
BOS		95HCGS588490NE	VERIZON	VERIZON	90 Devonshire		DS1	188.54	617
BAL		38HCGS795659CM	VERIZON	VERIZON	101 W Lombard St		DS1	198.24	410
BAL		38HCGS795660CM	VERIZON	VERIZON	101 W Lombard St		DS1	198.24	410

BAL								DS1	396.48 410I
BAL					38HCGS795912CM	VERIZON	VERIZON	31 Hopkins Plaza	
BAL					38HCGS796715CM	VERIZON	VERIZON	201 East McComas St	DS1 198.24 410I
BAL					38HCGS796716CM	VERIZON	VERIZON	608 South Folcroft St	DS1 434.07 410I
BAL					11HCGS284170PA	VERIZON	VERIZON	200 Chestnut	DS1 198.24 215I
PHI									
BAL					38HCGS798075CM	VERIZON	VERIZON	3431 Benson Ave	DS1 434.07 410I
BAL					38HCGS798075CM	VERIZON	VERIZON	3431 Benson Ave	DS1 434.07 410I
BAL					38HCGS797124CM	VERIZON	VERIZON	2700 Broening Highway	DS1 434.07 410I
BAL					38HCGS797176CM	VERIZON	VERIZON	BWI Airport Terminal Pier E	DS1 516.18 410I
BAL					81HCGS465358GTEW	Verizon	GTE	5001 Airport Plaza Dr	DS1 197.24 C11S
LOS					11HCGS285246PA	VERIZON	VERIZON	200 Chestnut & 601 Walnut	DS1 396.48 215I
PHI					38HCGS798004CM	VERIZON	VERIZON	711 West 40th Street	DS1 365.36 410I
BAL					38HCGS798077CM	VERIZON	VERIZON	500 North Calvert Street	DS1 198.24 410I
BAL					38HCGS798078CM	VERIZON	VERIZON	500 North Calvert St	DS1 198.24 410I
BAL					38HCGS798103CM	VERIZON	VERIZON	6000 Metro Drive	DS1 502.21 410I
BAL					38HCGS798104CM	VERIZON	VERIZON	3036 Mondawmin Mall	DS1 351.96 410I
BAL					38HCGS798105CM	VERIZON	VERIZON	518 South Conkling St.	DS1 337.99 410
BAL					38HCGS798167CM	VERIZON	VERIZON	711 West 40th Street	DS1 365.36 410
BAL					38HCGS798168CM	VERIZON	VERIZON	711 West 40th Street	DS1 365.36 410
BAL					38HCGS798169CM	VERIZON	VERIZON	711 West 40th Street	DS1 365.36 410
BAL					38HCGS798236CM	VERIZON	VERIZON	BWI Airport Cargo Area: Bldg F	DS1 516.18 410
BAL								300 East Joppa Rd.	
BAL								1629 Thames St	
BAL								1629 Thames St Ft. McHenry - 3. Orders	
BAL					69HFGS101240GTES	VERIZON	VERIZON	400 N. Tampa	DS3 $1,220 F11
TAM	108/T3Z/TAMPFLCMK03/TAMQFLTAW02				69HFGS101240GTES	VERIZON	VERIZON	400 N. Tampa	DS3 $1,220 F11
TAM	106/T3Z/TAMPFLCMK03/TAMQFLTAW02				95HFGS589879NE	VERIZON	VERIZON	50 Rowes Wharf	DS3 $1,771 617
BOS	101/T3Z/BSTNMALU/BSTNMAWHK01				32HFGS576354NY	VERIZON	VERIZON	1330 7th Avenue of the Americas	DS3 $2,548 212
NYC	101/T3Z/NYCMNYAW/NYCMNYZRWES				32HFGS576624NY	VERIZON	VERIZON	1330 7th Avenue of the Americas	DS3 $2,548 212
NYC	124/T3Z/NYCMNYAW/NYCMNYZRK63								

NYC	NYC02/T3 /NYCMNYZRK62/NYCMNYBK	32HFGS105073NY	VERIZON	VERIZON	1515 Broadway	DS3	$2,548	21
NYC	125/T3Z/NYCMNYAW/NYCMNYZRK63	32HFGS576625NY	VERIZON	VERIZON	1330 7th Avenue of the Americas	DS3	$2,548	21
NYC	102 /T3Z /NYCMNYZRK63/NYCNNYDA	32HFGS580800NY	VERIZON	VERIZON	10711 1ST AVE	DS3	$2,641	21
NYC	122 /T3Z /NYCMNYZRK63/NYCNNYDA	32HFGS576583NY	VERIZON	VERIZON	10711 1ST AVE	DS3	$2,641	21
BAL	101 /T3Z /BLTMMDAFK04/TWSNMD90	38HFGS400818CM	VERIZON	VERIZON	1 INVESTMENT PLACE	DS3	$2,772	41
BAL	102 /T3Z /BLTMMDAFK04/TWSNMD90	38HFGS400819CM	VERIZON	VERIZON	1 INVESTMENT PLACE	DS3	$2,772	41
BAL	103 /T3Z /BLTMMDAFK04/TWSNMD90	38HFGS400820CM	VERIZON	VERIZON	1 INVESTMENT PLACE	DS3	$2,772	41
BAL	101 /T3Z /BLTMMDAFK04/LNTHMDCA	38HFGS400879CM	VERIZON	VERIZON	857 ELKRIDGE LANDING RD	DS3	$2,844	41
BOS	101 /T3Z /BSTNMAWHK01/WOBNMAIG	95HFGS584060NE	VERIZON	VERIZON	10 Tower Office Park	DS3	$3,154	617
BOS	113 /T3Z /BSTNMAWHK01/WOBNMAIG	95HFGS577918NE	VERIZON	VERIZON	10 Tower Office Park	DS3	$3,154	617
BOS	114 /T3Z /BSTNMAWHK01/WOBNMAIG	95HFGS577919NE	VERIZON	VERIZON	10 Tower Office Park	DS3	$3,154	617
TAM	104 /T3Z /SPBGFLRS /TAMPFLCMK03	69HFGS101234GTES	VERIZON	VERIZON	424 CENTRAL AVE	DS3	$3,210	F11
TAM	105 /T3Z /SPBGFLRS /TAMPFLCMK03	69HFGS101235GTES	VERIZON	VERIZON	424 CENTRAL AVE	DS3	$3,210	F11
WDC	109/T3Z/FLCHVATC/MCLNVADG	36HFGS401333CD	VERIZON	VERIZON	7799 Leesburg Pike	DS3	$3,222	202
WDC	110/T3Z/FLCHVATC/MCLNVADG	36HFGS401332CD	VERIZON	VERIZON	7799 Leesburg Pike	DS3	$3,222	202
BOS	121 /T3Z /BSTNMAWHK01/BURLMAAQ	95HFGS577921NE	VERIZON	VERIZON	7 NEW ENGLAND EXEC.	DS3	$3,526	617
BOS	122 /T3Z /BSTNMAWHK01/BURLMAAQ	95HFGS577922NE	VERIZON	VERIZON	7 NEW ENGLAND EXEC.	DS3	$3,526	617
BOS	123 /T3Z /BSTNMAWHK01/BURLMAAQ	95HFGS577923NE	VERIZON	VERIZON	7 NEW ENGLAND EXEC.	DS3	$3,526	617
PHI	101/T3Z/PHLAPADKK00/PHLAPAYG	11HFGS097191PA	VERIZON	VERIZON	3600 Market Street	DS3	$3,745	215
PHI	102/T3Z/PHLAPADKK00/PHLAPAYG	11HFGS097192PA	VERIZON	VERIZON	3600 Market Street	DS3	$3,745	215
PHI	101 /T3Z /CNSHPAWI /PHLAPADKK00	11HFGS097132PA	VERIZON	VERIZON	1001 Conshohocken Road	DS3	$4,152	215
LOS	102 /T3Z /LNBHCA06 /LSANCASSW22	3TWSILBW0002	VERIZON	VERIZON	215 Long Beach	DS3	$4,207	100
BAL	101 /T3Z /BLTMMDAFK04/CLMAMDHS	38HFGS400786CM	VERIZON	VERIZON	7125 COLUMBIA GATEWAY	DS3	$4,403	202
BAL	102 /T3Z /BLTMMDAFK04/HNVYMDBJ	38HFGS400673CM	VERIZON	VERIZON	11350 MCCORMICK RD	DS3	$4,425	202
PHI	101 /T3Z /KGPRPA02 /PHLAPADKK00	11HFGS097171PA	VERIZON	VERIZON	200 North Warner Road	DS3	$4,547	215

BAL	101/T3Z/BLTMMDAFK04/CLMAMDDU
BAL	102/T3Z/BLTMMDAFK04/CLMAMDDU
WDC	101/T3Z/RKVLMDCY/WASHDCBLK04
WDC	/111/T3Z/BTHSMDAL/WASHDCBLK04
PHI	103 /T3Z /PHLAPADKK00/PLMGPASI
WDC	101/T3Z/ALXNVA09/WASHDCBLK04
WDC	101/T3Z/ALXNVACA/WASHDCBLK04
WDC	102/T3Z/ALXNVA09/WASHDCBLK04
PHI	101 /T3Z /BCYNPABD /PHLAPADKK00
WDC	101/T3Z/SLSPMDEW/WASHDCBLK04
WDC	101/T3Z/VINNVAET/WASHDCBLK04
PHI	101 /T3Z /KGPRPAFA /PHLAPADKK00
PHI	101 /T3Z /BWYNPAAD /PHLAPADKK00
NYC	NYC01/DS3/NYCMNYTU/NYCMNYZRK63
	7030/T1ZF/DLLSTX37BB0/DLLS37K08
	7012/T1ZF/NYCMNYZRK63/NYCMNYZR70W
	00/FOGL/036961/NYC/WNR/BA
	00/FOGL/033763/MOR/WNR /BLA
	00/FOGL/033891/DUR/WNR /GTE
	00/FOGL/036952/GAI/WNR /BLS
	7004/T1/PHLAPADK00W/PHLAPADKK00
	7015/T1ZF/PHLAPADKK00/PHLAPADK00W
	7016/T1ZF/PHLAPADKK00/PHLAPADK00W
	7015/T1ZF/PHLAPADKK00/PHLAPADK00W
	7015/T1ZF/NYCMNYZRK63/NYCMNYZR70W
	00/FOGL/033739/CHA/WNR /BLA
	00/FOGL/033782/ROA/WNR /BLA
	00/FOGL/034109/HKY/WNR/ /SPR
	00/FOGL/034297/WDC/WNR/ATL
	00/FOGL/036381/WDC/WNR/BA
	NONE
	702/T1ZF/LSANCASS04W/LSANCASSK01
	NONE
	7002/T1/TAMPFLCM00W/TAMPFLCMK02
	00/FOGL/033933/TAL/WNR /GTE
	00/FOGL/033935/TAM/WNR /GTE

38HFGS400649CM	VERIZON	VERIZON	10320 LITTLE PATUXENT PKWY	DS3	$4,676	41	
38HFGS400650CM	VERIZON	VERIZON	10320 LITTLE PATUXENT PKWY	DS3	$4,676	41	
36HFGS403796CD	VERIZON	VERIZON	2400 Research Blvd	DS3	$4,749	20	
36HFGS402182CD	VERIZON	VERIZON	6707 DEMOCRACY BLVD	DS3	$4,856	20	
11HFGS097817PA	VERIZON	VERIZON	502 W Germantown Pike	DS3	$5,321	21	
36HFGS403663CD	VERIZON	VERIZON	801 N PITT STREET	DS3	$5,671	20	
36HFGS403617CD	VERIZON	VERIZON	1101 King St	DS3	$5,671	20	
36HFGS403664CD	VERIZON	VERIZON	801 N PITT STREET	DS3	$5,671	20	
11HFGS096882PA	VERIZON	VERIZON	2 Bala Plaza/333 City Line Ave	DS3	$5,822	21	
36HFGS403108CD	VERIZON	VERIZON	8601 Georgia Ave	DS3	$5,855	20	
36HFGS401628CD	VERIZON	VERIZON	8245 BOONE BLVD	DS3	$6,136	20	
11HFGS096585PA	VERIZON	VERIZON	1150 1ST AVENUE	DS3	$6,156	21	
11HFGS097183PA	VERIZON	VERIZON	300 Berwyn Park	DS3	$6,381	21	
32HFGS103600NY	VERIZON	VERIZON		DS3	2640.68	21	
12YBGS218027GTEC	Verizon	GTE		T-1	180		
YBGS088790NJ	Verizon Bell Atlantic			T-1	234.47	20	
YBGS090586NJ	Verizon Bell Atlantic			T	234.47	20	
36HCGS819862CD	Verizon Bell Atlantic				0	20	
36HCGS823148CD	Verizon Bell Atlantic				331.99	20	
36HCGS817034CD	Verizon Bell Atlantic				82.31	20	
11HCGS229688PA	Verizon Bell Atlantic				0	21	
11HCGS233953PA	Verizon Bell Atlantic				229.15	21	
11HCGS234236PA	Verizon . ATLANTIC				0	21	
YBGS089175NJ	Verizon Bell Atlantic			T-1	234.47	60	
YBGS088932NJ	Verizon Bell Atlantic			T-1	234.47	60	
36HCGS812884CD	Verizon Bell Atlantic				109.74	70	
36HCGS813026CD	Verizon Bell Atlantic				109.74	70	
36HCGS823681CD	Verizon . ATLANTIC				109.74	70	
36HCGS834392CD	Verizon Bell Atlantic				0	70	
36HCGS835729CD	Verizon Bell Atlantic				403.92	70	
81YBGS413732GTEW	Verizon	GTE		T-1	240		
81YBGS447598GTEW	Verizon	GTE		T-1	193		
81YBGS408566GTEW	Verizon	GTE		T-1	0	21	
81YBGS413438GTEW	Verizon	GTE		T-1	412		
69YBGS118374GTES	Verizon	GTE		T-1	126	F1	
69YBGS118705GTES	Verizon	GTE		T-1	126	F1	
69YBGS119754GTES	Verizon	GTE		T-1	126	F1	

701/T1ZF/MIAMFLDA00W/MIAMFLDAK05	69YBGS121052GTES	Verizon	GTE	T-1	126 F1
NONE	83YBGS300462GTEW	Verizon	GTE	T-1	170 N1
7016/T1/HSTNTXTO00W/HSTNTXTODS0	12YBGS217270GTEC	Verizon	GTE	T-1	0 S1
7018/T1ZF/BSTNMAWHK00/BSTNMAWH00W	81YBGS259175NE	Verizon	Bell Atlantic	T-1	556.48 2C
701/T1ZF/NYCMNYZR70W/NYCMNYZRK63	32YBGS263171NY	Verizon	Bell Atlantic	T-1	662.68 21
7002/T1/NYCMNYZRR70W/NYCMNYZRK63	32YBGS256810NY	Verizon	Bell Atlantic	T-1	729.56 21
7007/T1ZF/PHLAPADKK00/PHLAPADK00W	11YBGS218316PA	Verizon	Bell Atlantic	T-1	234.47 2
7011/T1ZF/CHCGILCNK01/CHCGILCN01W	31YBGS100568GTEN	Verizon	GTE	T-1	225.59 2
00/FOGL/033739/CHA/WNR /BLA	54YBGS768532CW	Verizon	Bell Atlantic	T-1	234.47 3
00/FOGL/033763/MOR/WNR /BLA	56YBGS767826CW	Verizon	Bell Atlantic	T-1	234.47 3
99/T1X/11026/NYC/WNR	36YBGS256802NY	Verizon	Bell Atlantic	T-1	556.48 31
00/FOGL/033780/PRO/WNR /BLA	85YBGS256805NE	Verizon	Bell Atlantic	T-1	678.68 4C
7007/T1/BSTNMAWH00W/BSTNMAWHK00	91YBGS256663NE	Verizon	Bell Atlantic	T-1	716.68 41
7030/T1ZF/NYCMNYZRK63/NYCMNYZR07W	34YBGS257955NY	Verizon	Bell Atlantic	T-1	1156.48 51
00/FOGL/033740/CUL/WNR/ /BLA	46YBGS768175CV	Verizon	Bell Atlantic	T-1	234.47 5
00/FOGL/033782/ROA/WNR /BLA	44YBGS768641CV	Verizon	Bell Atlantic	T-1	234.47 5
7013/T1/BSTNMAWH00W/BSTNMAWHK00	83YBGS257514NE	Verizon	Bell Atlantic	T-1	1029.44 60
7021/T1ZF/NYCMNYZR/NYCMNYZRK63	38YBGS258324NY	Verizon	Bell Atlantic	T-1	654.68 60
7002/T1/BSTNMAWH00W/BSTNMAWHK00	95YBGS256606NE	Verizon	Bell Atlantic	T-1	729.56 61
00/FOGL/033737/BOS/WNR /BLA	95YBGS259920NE	Verizon	Bell Atlantic	T-1	564.48 61
701/T1ZF/BSTNMAWHK01/BSTNWAWH00W	95YBGS477878NE	Verizon	Bell Atlantic	T-1	556.48 61
00/FOGL/033788/WDC/WNR /BLA	36YBGS800305CD	Verizon	Bell Atlantic	T-1	403.69 7(
00/FOGL/044887/WDC/WNR/BA	36YBGS800437CD	Verizon	Bell Atlantic	T-1	234.47 7(
00/FOGL/036381/WDC/WNR/BA	42YBGS767719CM	Verizon	Bell Atlantic	T-1	234.47 7(
7016/T1ZF/PHLAPADKK00/PHLAPADK00W	12YBGS503126PA	Verizon	Bell Atlantic	T-1	234.47 7
00/FOGL/036952/GAI/WNR /BLS	52YBGS770784CV	Verizon	Bell Atlantic	T-1	403.69 7
7017/T1ZF/BSTNMAWHBBO/BSTNMAWHK00	87YBGS258337NE	Verizon	Bell Atlantic	T-1	654.68 8C
00/FOGL/033782/ROA/WNR /BLA	48YBGS771112CV	Verizon	Bell Atlantic	T-1	234.47 8(
7009/T1ZF/NYCMNYZRK63/NYCMNYZR70W	33YBGS257327NY	Verizon	Bell Atlantic	T-1	654.68 91
00/FOGL/034109/HKY/WNR/ /SPR	66YBGS102161GTES	Verizon	GTE	T-1	275.41 E3
NONE	82YBGS510891GTEW	Verizon	GTE	T-1	327.2 11
7008/T1/DLLSTX3709W/DLLSTX37K08	12YBGS215922GTEC	Verizon	GTE	T-1	362 S1
7002/T1/WASHDCBL00W/WASHDCBLK00	36YBGS800048CD	Verizon	Bell Atlantic	T-1	234.47 2(
7038/T1ZF/NYCMNYZRK63/NYCMNYZR70W	32YBGS259407NY	Verizon	Bell Atlantic	T-1	491.01 21
00/FOGL/033731/BAL/WNR /BLS	38YBGS774231CM	Verizon	Bell Atlantic	T-1	234.47 4
7004/T1/PHLAPADK00W/PHLAPADKK00	15YBGS509484PA	Verizon	Bell Atlantic	T-1	234.47 41
X	13YBGS503898PA	Verizon	Bell Atlantic	T-1	234.47 7
NONE	70HCGS400956PN	Verizon	GTE	T-1	676.14 N1
	72XHGS408256PN	Verizon	GTE	56KB	146.3 N1
00/FOGL/033891/DUR/WNR /GTE	61YBGS203273GTES	Verizon	GTE	T-1	180
NONE	83YBGS300592GTEW	Verizon	GTE	T-1	146 N1
NONE	86YBGS401829GTEW	Verizon	GTE	T-1	225.42 N1
NONE	86YBGS404307GTEW	Verizon	GTE	T-1	244.36 N1
NONE	86YBGS405058GTEW	Verizon	GTE	T-1	244.36 N1
NONE	72HCGS28271ACSO	Verizon	GTE	T-1	204
7002/T1/PHLAPADKK00/PHLAPADK00W	86HCGS400479GTEW	Verizon	GTE	T-1	205
99/T1X/11685/TAM/WBS	11YBGS217607PA	Verizon	Bell Atlantic	T-1	234.47 41
00/FOGL/038952/GNV/WNR/SBL	69HCGS125702GTES	Verizon	GTE		87 F1
701/T1ZF/PHLAPADK01W/PHLAPADKK00	69HCGS137837GTES	Verizon	GTE		87 F1
00/FOGL/037006/TAL/WNR /SPR	11YBGS218924PA	Verizon	Bell Atlantic	T-1	234.47 2
702/T1ZF/TAMPFLCMK03/TAMPFLCM00W	69HCGS128083GTES	Verizon	GTE		87 F1
703/T1ZF/TAMPFLCMK03/TAMPFLCM00W	69HCGS134350GTES	Verizon	GTE		87 F1
	69HCGS137704GTES	Verizon	GTE		87 F1

	7011/T1ZF/LSANCASSK01/LSANCASS04W	81YBGS423516GTEW	Verizon	GTE				T-1	0	C1
	01/FOGL/049834/LOS/WNR/SBC	81YBGS471798GTEW	Verizon	GTE				T-1	0	C1
	7018/T1ZF/TAMPFLCMK02/TAMPFLCM00W	69HCGS127987GTES	Verizon	GTE					0	F1
	7008/T1ZF/TAMPFLCMK02/TAMPFLCM00W	69HCGS128081GTES	Verizon	GTE					0	F1
	00/FOGL/033850/MIA/WNR/BLS	69HCGS134138GTES	Verizon	GTE					0	F1
	7024/T1ZF/CHCGILCNK01/CHCGILCN01W	30YBGS204422GTEN	Verizon	GTE				T-1	0	M1
	7026/T1ZF/CHCGILCNK00/CHCGILCN01W	30YBGS204426GTEN	Verizon	GTE				T-1	0	M1
	7029/T1ZF/CHCGILCNK00/CHCGILCN01W	31YBGS205772GTEN	Verizon	GTE				T-1	0	M1
		31YBGS205860GTEN	Verizon	GTE				T-1	0	M1
	NONE	83YBGS300500GTEW	Verizon	GTE				T-1	0	N1
	NONE	86HCGS401938GTEW	Verizon	GTE				T-1	0	N1
	NONE	86YBGS404505GTEW	Verizon	GTE				T-1	0	N1
	NONE	86HCGS401174GTEW	Verizon	GTE				T-1	0	N1
	7027/T1ZF/CHCGILCNK01/CHCGILCN01W	31YBGS205854GTEN	Verizon	GTE				T-1	213	
	NONE	85YBGS403302GTEW	Verizon	GTE				T-1	360	
	NONE	85HCGS400752GTEW	Verizon	GTE				T-1	276	
TAMPA	500 /T3Z /TAMPFLCMDS1/TAMPFLXA01T	2301T3ZTAMPFLCM2MDTAMPFLXAK06	Verizon	GTE	TAMPFLCM	TAMPFLXA	T3Z	0	F1	
TAMPA	504 /T3Z /TAMPFLCMK03/TAMPFLXA	2320T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCM	TAMPFLXA	T3Z	1605	F1	
TAMPA	503 /T3Z /TAMPFLCMK03/TAMPFLXA	2319T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCM	TAMPFLXA	T3Z	1605	F1	
TAMPA	502 /T3Z /TAMPFLCMK03/TAMPFLXA	2318T3ZTAMPFLCMW02TAMPFLXAK08	Verizon	GTE	TAMPFLCM	TAMPFLXA	T3Z	1605	F1	
BALTIMORE	501 /T3Z /ANNPMDANK31/BLTMMDAFK04	8001T3ZANNPMDANK31BLTMMDAFW01	VERIZON	VERIZON	ANNPMDAN	BLTMMDAF	T3Z	4928.79	41	
BALTIMORE	506 /T3Z /BLTMMDAFK04/BLTMMDCH	8015T3ZBLTMMDAFW01BLTMMCHK13	VERIZON	VERIZON	BLTMMDAF	BLTMMDCH	T3Z	1150.54	41	
BALTIMORE	505 /T3Z /BLTMMDAFK04/BLTMMDCH	8014T3ZBLTMMDAFW01BLTMMCHK13	VERIZON	VERIZON	BLTMMDAF	BLTMMDCH	T3Z	1150.54	41	
BALTIMORE	502 /T3Z /BLTMMDAFK04/BLTMMDCH	8011T3ZBLTMMDAFW01BLTMMDCHK13	VERIZON	VERIZON	BLTMMDAF	BLTMMDCH	T3Z	435.54	41	
BALTIMORE	501 /T3Z /BLTMMDAFK04/BLTMMDCHK34	8002T3ZBLTMMDAFW01BLTMMDCHK34	VERIZON	VERIZON	BLTMMDAF	BLTMMDCH	T3Z	2125.54	41	
PHILADELPHIA	501 /T3Z /PHLAPADKK00/PHLAPAMKK32	3202T3ZPHLAPADKW99PHLAPAMKK32	VERIZON	VERIZON	PHLAPADK	PHLAPAMK	T3Z	3630	21	
PHILADELPHIA	501 /T3Z /FTWSPAFW /PHLAPADKK00	3201T3ZFTWSPAFWK32PHLAPADKW99	VERIZON	VERIZON	FTWSPAFW	PHLAPADK	T3Z	3630	21	
PHILADELPHIA	502 /T3Z /PHLAPADKK00/PHLAPAMK	3507T3ZPHLAPADKW99PHLAPAMKK35	VERIZON	VERIZON	PHLAPADK	PHLAPAMK	T3Z	1946.78	21	
PHILADELPHIA	501 /T3Z /PHLAPADKK00/PHLAPAMK	3506T3ZPHLAPADKW99PHLAPAMKK35	VERIZON	VERIZON	PHLAPADK	PHLAPAMK	T3Z	1981.28	21	
PHILADELPHIA	500 /T3Z /PHLAPADKK00/PHLAPAMK	3505T3ZPHLAPADKW99PHLAPAMKK35	VERIZON	VERIZON	PHLAPADK	PHLAPAMK	T3Z	1787.56	21	
PHILADELPHIA	PHI08/T3Z /PHLAPADKW99/PHLAPAMKK32	3204T3ZPHLAPADKW99PHLAPAMKK32	VERIZON	VERIZON	PHLAPADK	PHLAPAMK	HF	2074.14	21	
NEW YORK	503 /T3Z /NYCMNYWS /NYCMNYZRK63	5048T3NYCMNYWSK45NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWS	NYCMNYZR	T3Z	1062.04	21	
NEW YORK	500 /T3Z /NYCMNYWS /NYCMNYZRK63	5045T3NYCMNYWSK45NYCMNYZRWES	VERIZON	VERIZON	NYCMNYWS	NYCMNYZR	T3Z	1062.04	21	
NEWARK	113 /T3 /NWRKNJMDK01/NYCMNYWSHO1	5003T3NYCMNYWSH01NYCMNYWSK45	VERIZON	VERIZON	NWRKNJMD	NYCMNYWS	T3	387.68	21	
NEWARK	112 /T3 /NWRKNJMDK01/NYCMNYWSHO1	5002T3NYCMNYWSH01NYCMNYWSK45	VERIZON	VERIZON	NWRKNJMD	NYCMNYWS	T3	373.33	21	
NEWARK	111 /T3 /NWRKNJMDK01/NYCMNYWSHO1	5001T3NYCMNYWSH01NYCMNYWSK45	VERIZON	VERIZON	NWRKNJMD	NYCMNYWS	T3	330.23	21	
NEWARK	110 /T3 /NWRKNJMDK01/NYCMNYWSHO1	5000T3NYCMNYWSH01NYCMNYWSK45	VERIZON	VERIZON	NWRKNJMD	NYCMNYWS	T3	387.68	21	
WASHINGTON DC	105 /T3Z /WASHDCBLK04/WASHDCMT	4021T3ZWASHDCBLW01WASHDCMTK32	VERIZON	VERIZON	WASHDCBL	WASHDCMT	T3Z	1150.54	20	
NEWARK	502 /T3Z /NWRKNJMDK01/NWRKNJ0206T	9101T3ZNWRKNJMDW08NWRKNJ02K91	VERIZON	VERIZON	NWRKNJ02	NWRKNJMD	T3Z	2018.26	20	
NEWARK	501 /T3Z /NWRKNJMDK01/NWRKNJ0206T	9101T3ZNWRKNJMDW08NWRKNJ02K91	VERIZON	VERIZON	NWRKNJ02	NWRKNJMD	T3Z	2018.26	20	

A Partnership Including
Professional Corporations
50 Rockefeller Plaza
New York, NY 10020-1605
212-547-5400
Facsimile 212-547-5444
www.mwe.com

McDERMOTT, WILL & EMERY

April 26, 2002

Via Facsimile (404-873-8501) and E-mail
Darryl S. Laddin, Esq.
Arnall Golden & Gregory, LLP
2800 One Atlantic Center
1201 W. Peachtree Street
Atlanta, GA 30309-3450

Re: Winstar Communications, LLC

Dear Mr. Laddin:

I have attached hereto as Attachment 1 a list of the circuits, ANIS and POTS lines (the "Services") that Winstar Communications, LLC and/or its affiliates ("Winstar") has requested Verizon Communications, Inc. and/or its subsidiaries ("Verizon") to disconnect. I have also attached hereto as Attachment 2 a list of all of the Services that Verizon should keep in service. Attachment 2 consists of Services that Winstar is keeping "short term" for regulatory reasons and those that Winstar is keeping "long term."

Winstar believes that these two attached lists together represent all of the Services that Verizon is currently billing to Winstar Wireless, Inc. If Verizon is aware of any other Services in that status, we would appreciate it if Verizon would disconnect any Services that are not on Attachment 2, even if such Services are not on Attachment 1, and advise us of that occurrence.

Should you have any further questions regarding this matter, please do not hesitate to give me a call at (212) 547-5352.

Sincerely,

Michael T. Hughes

Attachments
cc: Geoffrey Rochwarger (*via e-mail*)
Diane Clark, Esq. (*via e-mail*)
David Albalah, Esq. (*via e-mail*)
Kathryn P. Beller, Esq. (*via e-mail*)
Jean L. Kiddoo, Esq. (*via e-mail*)